

Office of the  
Privacy Commissioner  
of Canada

Commissariat  
à la protection de  
la vie privée du Canada



# Review of the Personal Information Handling Practices of the Canadian Firearms Program

Department of Justice Canada and  
the Royal Canadian Mounted Police

Final Report – August 29, 2001

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### Glossary of Acronyms

<b>AFO</b>	Area Firearms Officer
<b>CCRA</b>	Canada Customs and Revenue Agency
<b>CFC</b>	Canadian Firearms Centre
<b>CFO</b>	Chief Firearms Officer
<b>CFR</b>	Canadian Firearms Registry
<b>CFRO</b>	Canadian Firearms Registry Online
<b>CFRS</b>	Canadian Firearms Registration System
<b>CPIC</b>	Canadian Police Information Centre
<b>CPS</b>	Central Processing Site
<b>DOJ</b>	Department of Justice Canada
<b>FAC</b>	Firearms Acquisition Certificate
<b>FIP</b>	Firearms Interest Police
<b>FO</b>	Firearms Officer
<b>FRT</b>	Firearms Reference Table
<b>IT</b>	Information Technology
<b>LFO</b>	Local Firearms Officer
<b>MOU</b>	Memorandum of Understanding
<b>NPS</b>	National Police Services
<b>NPSN</b>	National Police Services Network
<b>OPP</b>	Ontario Provincial Police
<b>ORI</b>	Originating Agency
<b>OSR</b>	Operational Statistical Reporting System
<b>PAL</b>	Possession and Acquisition Licence
<b>POL</b>	Possession-Only Licence
<b>PFO</b>	Provincial Firearms Officer
<b>PIRS</b>	Police Information Retrieval System
<b>QPS</b>	Québec Processing Site
<b>RCMP</b>	Royal Canadian Mounted Police
<b>RWRS</b>	Restricted Weapons Registration System
<b>UCR</b>	Uniform Crime Reporting

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**EXECUTIVE SUMMARY**

My predecessor and I have taken a keen interest in the Canadian Firearms Program since it was first proposed. This is because the Program involves the collection and use of large amounts of highly sensitive personal information. We identified a number of potential privacy problems when the concept was first proposed; we made suggestions when the legislation was before Parliament; and we have commented on the subsequent regulations. None of our suggestions was undertaken.

My Office has received a number of inquiries and complaints about the Program since it was first proposed, including some from Members of Parliament. In part to assist our Office in responding to these complaints and inquiries, we decided in September 1999 that it was an opportune time to review the Program. The review had three objectives: to learn how the Firearms Program functions; to assess its compliance with the basic fair information principles as set out in the **Privacy Act**, and to offer observations and recommendations to improve the operation of the Program from a privacy perspective.

This review, which was initiated in January 2000, was based primarily on visits to the Canadian Firearms Centre, the Canadian Firearms Registry, the Central Processing Site, and three Chief Firearms Officer sites (Ontario, Saskatchewan and Alberta).

The Canadian Firearms Centre web site states:

“The licensing and registration system is a reasonable and minor intrusion on personal privacy when weighed against the greater benefits to Canadian society. All information in the registration system will be strictly controlled and governed by access to information and privacy laws.”

While gun control is important to the security of Canadians, the Program inevitably involves a significant intrusion on privacy. It requires the collection of a vast amount of personal information for purposes of the application and screening process. On the whole, our review has not found any egregious violations of the **Privacy Act**. We have found, however, a number of instances where the privacy of Canadians could be strengthened.



Our main concerns about the Firearms Program and our recommendations for corrective measures relate to three areas.

1. Access and correction rights:

Canadians are finding it difficult and time-consuming to exercise their access and correction rights because of the multi-jurisdictional nature of the Program. A single point of access would resolve many of the related problems.

2. Collection and use of personal information:

Firearms Officers have very broad powers and discretion to investigate and gather personal information about applicants. Access to police information should be tightened. Firearms Officers should only have access to information that is relevant to their duties.

3. Intrusiveness of the questions on the firearms licence application form:

Much of the information collected in the application process—about mental health, job losses, bankruptcies, substance abuse, etc.—is highly intrusive. We have concerns about the breadth of the information captured as well as its usefulness in the decision-making process. In our view, the Program has not provided a “demonstrable need” for some of the personal information being collected on the firearms licence application form.

While our report also raises some issues relating to the disclosure of personal information and security measures, we found that the physical, personnel and information technology security measures are appropriate to the information being protected. With respect to the disposal of personal information collected by the Program, there are outstanding questions about how this will be done since no clear policies and procedures are in place.

In April 1997, following a Parliamentary Committee recommendation, the Minister of Justice undertook to negotiate information sharing agreements that would ensure that the federal **Privacy Act** would apply in cases where no provincial and territorial privacy legislation exists. However, these agreements are still not in place. Overall co-ordination has been difficult given, among other things, the multi-jurisdictional nature of the Canadian Firearms Program. The absence of information sharing agreements has resulted in ongoing disputes relating to “ownership and control” of the records among the various partners and levels of government involved in the administration of the Program.



By and large, Program officials were helpful and co-operative during the course of the review and expressed interest not only in the review's objective but also in the application of the **Privacy Act**. In some cases, remedial action has already been initiated.

It should also be noted that this review does not address the following issues that have arisen subsequent to the research and field work that form the basis of this report (see **Appendix H**):

- the personal information handling practices of the Canada Customs and Revenue Agency;
- the outsourcing issues; and
- any international information sharing agreements.

George Radwanski  
Privacy Commissioner of Canada

## REVIEW

### BACKGROUND

Bill C-68, *An Act respecting firearms and other weapons*, (the **Firearms Act**) was introduced in February 1995 and received Royal Assent on December 5, 1995. The **Firearms Act** is a highly controversial piece of legislation that produces strong emotions among both its supporters and its critics. Our Office's interest in the legislation is simple; the Firearms Program involves the collection and use of large amounts of highly sensitive personal information.

Following the introduction of the Bill, our Office raised several concerns regarding the legislation and the implementation of the Firearms Program. On November 2, 1995 during an appearance before the Standing Senate Committee on Legal and Constitutional Affairs, the former Privacy Commissioner indicated that:

- the Bill, or the regulations under it, may well need to impose additional restrictions regarding collection in light of the sensitivity of the information;
- the Bill should state clearly that such information falls under the protective umbrella of the **Privacy Act**, or at least as part of the Agreements between the federal and provincial governments; and that
- the Bill should state somewhere in the legislation that the **Privacy Act** applies to all of the information collected no matter where it is held.

Then, on February 6, 1997, the former Privacy Commissioner appeared before the Sub-Committee on the Draft Regulations on Firearms of the Standing Committee on Justice and Legal Affairs and indicated that:

- because of a patchwork of privacy legislation in Canada, provisions should be included in the regulations requiring that all personal information be collected and managed in accordance with the federal **Privacy Act**;
- there are concerns about former spouses and partners being asked to provide their opinions during the screening, which could lead to the collection of inaccurate information and the improper disclosure of personal information about the spouses;
- the only recourse for a review by a judge could result in the unnecessary disclosure to the public of sensitive personal information; and that
- there could be a retention of prohibition orders beyond the intention of the courts.

The Committee accepted only two of the Commissioner's recommendations. First, the Sub-Committee recommended that Memoranda of Understanding be negotiated with each province and territory outlining that the **Privacy Act** applies in those cases where no provincial law exists and that rules of application be negotiated for the other jurisdictions. The Sub-Committee also recommended that a mediation mechanism outside of the court process be established. Neither of these recommendations were implemented.

The suggestions made during the drafting of the **Firearms Act** and the **Regulations** and during the implementation stages to make the Program more privacy sensitive did not result in any

substantial changes to the legislation or to the design of the system. The Privacy Commissioner continues to receive numerous inquiries and complaints about the personal information handling practices of the Firearms Program (see nature of complaints at **Appendix B**). Our privacy concerns relate to:

- the jurisdictional issues with respect to the management and use of sensitive personal information in terms of protection, access, correction, etc.;
- the patchwork of privacy legislation governing the personal information held by federal, provincial and municipal agencies;
- the requirement to negotiate information sharing agreements, and not just service agreements, with all the partners;
- the open and unrestricted use by Firearms Officers of law enforcement databases;
- the information that populates the Firearms Interest Police (FIP) database;
- the intrusive nature of the questions on the licence application forms;
- the broad wording of section 55 of the **Firearms Act** relating to the “collection of any information reasonably regarded as relevant to determining eligibility”;
- the collection of personal information during secondary and tertiary screening investigations;
- the collection of personal information from and about former spouses, and the possible disclosures of their information;
- the appeal process and the need to institute an internal mediation mechanism; and
- the lack of policies and procedures regarding records retention and destruction.

## **SCOPE OF REVIEW**

The purpose of the review was to assess the Canadian Firearms Program's compliance with sections 4 to 12 of the **Privacy Act**. These sections of the Act relate to the collection, use, disclosure, retention, disposal, and protection of personal information and to an individual's rights of access and correction of this information. **(See Appendix C)**.

The review included visits to the Canadian Firearms Centre in Ottawa, the Central Processing Site in Miramichi, NB, the Canadian Firearms Registry at RCMP Headquarters, and to Chief Firearms Offices in Orillia, ON (provincially-administered) and Regina, SK and Edmonton, AB (federally-administered). Our comments and observations in this report are based primarily on the sites visited and, as such, do not apply to the administration of the Program in Newfoundland or Québec, for example.

In February 2001, the Privacy Commissioner decided to re-assess whether the questions about personal history on the firearms licence application form meet the **Privacy Act** collection requirements. An addendum has been added to this report as Part II of the Findings and Recommendations.



## PROGRAM PROFILE

### AUTHORITY and MANDATE

The **Firearms Act** and **Regulations** apply to any person (including visitors in Canada) and any business that owns, wants to obtain, or uses firearms or that wants to purchase ammunition. The purpose of the legislation is to promote responsible firearm ownership and to keep firearms out of the hands of those who might misuse them. The legislation has a direct impact on the more than 2.3 million firearm owners in Canada. There are over 7 million firearms in Canada. On December 1, 1998, the Act and Regulations came into force along with the new Part III of the **Criminal Code** with certain exceptions. The Program is expected to be fully operational by the year 2003.

The legislative changes brought about:

- a new screening and licensing system to replace the Firearms Acquisition Certificate (FAC) system, which had been in place since 1979;
- **Criminal Code** amendments providing mandatory minimum sentences for certain serious crimes where firearms are used;
- enhanced regulations governing the storage of firearms that have been in place since 1993;
- formal controls on the entry and export of firearms into and out of Canada; and
- more controls over illegal movement of firearms.

The **Firearms Act** has two main requirements:

- A valid firearms licence is required before a firearm can be registered. The law states that, by December 31, 2000, everyone, including minors, visitors, gun dealers, and employees of a business, will need a licence for “possession only” or “possession and acquisition” of a firearm. Licences must be renewed every five years.
- All firearms must be registered. By December 31, 2002, a Registration Certificate with a Firearm Identification Number will be mandatory for every firearm. When an individual receives a gun or transfers one to another person (as a result of a sale, barter or gift), the ownership must be transferred to the new owner. Registration Certificates are valid for as long as the individual owns the firearm, unless it has been modified and the class has changed. There are three classes of firearms: *Non-restricted firearms* are mostly rifles and shotguns; *Restricted firearms* are primarily handguns; and *Prohibited firearms* are automatic and converted firearms as well as handguns with certain barrel lengths. Until they expire (the last one in 2003), the old Firearms Acquisition Certificates are valid.

The **Firearms Act** requires extensive background checks on every applicant before a licence is issued and before a firearm is sold. Eligibility screening involves two key components:

- Ensuring that all information required to make a decision has been received; and
- Conducting basic criminal/violence background checks of police and court files as well as character references and spousal notifications. Applicants are checked for certain criminal convictions and incidents of violent behaviour. For the purposes of the Act, violent behaviour

is defined as any type of violence—not limited to the use of guns—threatened violence or attempted violence against others or the applicants themselves.

Only the Chief Firearms Officer (CFO) in each province/territory and the delegated Firearms Officers (FOs) have the authority to refuse or revoke licences. The screening process can have as many as three stages, if required:

- Primary screening of applicants, based on the information provided on the application form, is done by staff members at the Central Processing Site (CPS) in Miramichi, NB and at the Québec Processing Site (QPS) in Montréal. After it has been determined that the application is complete and the data has been entered into the Canadian Firearms Registration System (CFRS), batch Canadian Police Information Centre (CPIC) background checks including FIP are conducted electronically with the assistance of the RCMP Accreditation Unit. At the QPS, the Sûreté du Québec assumes this duty. FOs at the CPS can approve totally “clean” applications – that is, information requirements have been met and there are no hits on CPIC or FIP. (Note: Our review did not cover the specific processing activities at the QPS.)
- Secondary screening, if required, which involves a closer look at regional automated police information retrieval databases and telephone follow-up with spouses (desk work) is done by CFOs and their delegates (FOs and support staff).
- Tertiary screening, if required, conducted by Area and Local Firearms Officers is a more in-depth field investigation that can involve interviews with employers, aboriginal leaders, neighbours, etc.

Licensees are checked for eligibility on an ongoing basis in different ways:

- As soon as a new violent incident is logged in FIP, the system automatically searches existing licence holders in the CFRS for a match and alerts the CFO of this development. This could result in a licence being revoked. (Note: Databases discussed below.)
- Court records of relevance to section 5 of the **Firearms Act** (i.e. prohibition orders) are manually fed into CFRS on a daily basis by CFO staff. This information is not only used to flag existing licence holders, but it also serves as another primary eligibility check on new applicants coming into the system.
- Also, the CFRS maintains other key information used in the ongoing eligibility screening process such as firearms events and spousal notification tables.

During the course of our review, we referred to the Canadian Firearms Centre's web site for a **Summary of Key Statistics** on the Firearms licensing and registration program (see **Appendix D**). For **Highlights of the Act and its Regulations**, refer to **Appendix E**.

## **ROLES AND RESPONSIBILITIES OF PRINCIPAL PARTNERS**

The administration of the Program is shared by a large number of partners within the public and private sectors. In addition to different government departments and law enforcement agencies at the federal, provincial and municipal levels, there are private sector organizations that have been contracted to administer certain components of the Program. Nonetheless, the Minister of Justice recently reiterated in the House of Commons that “the Government, and in particular the Minister of Justice, will remain fully accountable and responsible for this Program”. Although the

Canadian Firearms Centre within the federal Department of Justice is expected to provide a single point of accountability, this is difficult since the key federal partners and those provinces that have opted-in play an almost autonomous role in the administration of the **Firearms Act**. The multi-jurisdictional division of duties has significant implications for the protection of personal information given that the personal information gathered and used to administer the **Firearms Act** is housed in separate locations across Canada.

## **Department of Justice Canada (DOJ)**

DOJ has responsibility for the overall management of the national Firearms Program. DOJ funds it entirely, including the salaries and equipment costs of provincial and municipal officers involved in the administration of the Program.

The Canadian Firearms Centre (CFC), within DOJ, was created to coordinate the overall implementation of the **Firearms Act**, including the development of regulations, systems and infrastructure needed to implement the new firearms licensing and registration system. The CFC, which is located in the National Capital Region, is responsible for the overall co-ordination, management and policy development of the Program. The CFC is also responsible for delivering public information relating to the Act, ministerial correspondence, and responding to inquiries.

DOJ manages the main data input facility, the Central Processing Site (CPS) in Miramichi, NB. The CPS handles data input for all licensing and registration applications in Canada, except for those originating in the province of Québec which are handled by the Québec Processing Site (QPS) in Montréal. In addition to processing applications and providing administrative support, the CPS operates a 1-800 call centre to provide public information. At the time of our review, approximately 300 personnel were employed at the CPS, 280 of who were Human Resources Development Canada employees under contract to DOJ. In May 2001 all term HRDC staff working for the Firearms Program were offered deployments to DOJ and indeterminate HRDC staff were offered one-year secondments.

There are 6 opt-in provinces that administer the Firearms Program themselves and 7 opt-out provinces and territories where the Federal Government administers the Program. The opt-in provinces are British Columbia, Ontario, Quebec, Nova Scotia, New Brunswick and Prince Edward Island. At the time of our review, DOJ directly ran the Program in Newfoundland and the Yukon, while the RCMP ran the remaining opt-out jurisdictions in the Northwest Region under contract for DOJ (Alberta, Saskatchewan, Manitoba, Northwest Territories, and Nunavut).

In March 2001 the management of the Firearms Program in the Northwest Region was transferred from the RCMP to DOJ. All civilian employees were offered deployments from the RCMP to DOJ and RCMP members were offered secondments. Six provinces and territories (Alberta, Saskatchewan, Manitoba, the Yukon, Nunavut and the Northwest Territories) were combined to form the Northwest Region headed by the Federal Chief Firearms Officer (FCFO). The entire Northwest Region is now managed and administered by DOJ. As well, the CFO site in Newfoundland continues to be administered by DOJ.

## **Royal Canadian Mounted Police (RCMP)**

At the time of our review, the RCMP had two main responsibilities:

- Maintain the Canadian Firearms Registry (CFR). Prior to the passage of the *Firearms Act*, the Commissioner of the RCMP had responsibility for the maintenance of a registry of *restricted* firearms only—approximately 1.2 million entries. The CFR is responsible for several tasks including the secondary analysis of firearm registration applications, performing CPIC queries on all licence applications, and operating a verifiers network. Approximately 3,500 volunteer verifiers across Canada ensure the accuracy of the description of the firearm by physically examining the firearm and comparing it to the Firearms Reference Table (FRT). Verifiers also assist the clients to properly identify their firearms and complete the prescribed application forms.
- Perform the CFO role in 5 of the 7 provinces and territories that “opted out” of the Program (specifically Alberta, Saskatchewan, Manitoba, Northwest Territories, and Nunavut). However, as noted above, since March 2001, the entire Northwest Region including the Yukon is now managed and administered by DOJ. The DOJ Federal Chief Firearms Officer Services is based in Edmonton.

## **Chief Firearms Officers (CFOs)**

All of the 10 provinces and 3 territories have CFOs who are responsible for administering the Program within their respective jurisdictions. Some CFOs are federal officials while others are provincial officials depending on whether the province has opted-in or opted-out. The provincially-administered CFOs are under either the Attorney General or Solicitor General provincial ministries, while the federal CFOs are employees of DOJ or the RCMP – some of who have recently been deployed or seconded to DOJ.

Firearms Officers (FOs) are appointed by each CFO. FOs’ responsibilities include licence application investigations, approval of transfers, spousal interviews, business and residence inspections, licence approval/revocation, participation in court appeals (re: licence refusals), training of Area and Local FOs, supervising amnesty programs as delegated by the CFO, and public presentations.

Depending on the population and the volume of licensing and registration activity, the number of FOs can vary greatly from one province/territory to another. FOs come from varied backgrounds. In some cases, like provincially-administered Ontario, field investigators wear “two hats”—municipal police officers and Area or Local FOs. In other areas, like federally-administered Alberta, none of the FOs are active police officers. Although many of them are former police officers, others come from other professions such as teaching. The Canadian Firearms Centre has developed an investigation training program for all FOs.

## **Canada Customs and Revenue Agency (CCRA)**

Since January 1, 2001, the Canada Customs and Revenue Agency (CCRA) is involved in the customs declarations component of the **Firearms Act**. Firearm owners and users visiting Canada have to declare all firearms that they wish to bring into Canada. Firearms Declarations must be made in writing and include basic information about the visitors, their destination in Canada, the reason for bringing the firearm into Canada, as well as descriptive information about each firearm. Background checks, including criminal history search, are conducted. Once approved by Customs Officers, Firearms Declarations act as temporary licences and registrations with prescribed expiry dates. Restricted firearms (i.e. handguns) also require an Authorization to Transport.

At the time of our review, this part of the Act was not yet in force. As such, our review did not cover CCRA's personal information handling practices of this new activity related to the movement of firearms. It is also noted that the effective date for imports and exports of firearms will be 2003.

## **PERSONAL INFORMATION HOLDINGS**

The Canadian Firearms Program involves the collection and use of large amounts of personal information. This information includes the applicant's name, date of birth, place of birth, address, gender, eye colour, height, telephone number, and classes of firearms currently owned. For identification purposes, applicants have to provide a photograph, signed by a guarantor, as well as list an official piece of identification (i.e., passport, driver's licence, birth certificate). Applicants also have to answer a series of personal history questions about criminal charges or convictions, suicide attempts, diagnosis or treatment of depression or emotional problems, substance abuse, divorce or separation, bankruptcy, the loss of a job, and whether or not he or she has been reported to the police or social services for violence, threatened violence or conflict in the home or elsewhere. Individuals applying for acquisition privileges are required to provide the name and date of birth of a spouse or common-law partner and the name, date of birth and address of previous (within the last two years) spouses or common-law partners.

All of this information is collected through the application process and all applicants are checked for criminal activity and previously rejected applications. As part of the secondary and tertiary screening, information can be collected from other police databases, current and former spouses or common-law partners, medical practitioners, neighbours, and other community members.

The Program's automated personal information holdings are primarily held in the widely shared Canadian Firearms Registration System (CFRS) with links to the Firearms Interest Police (FIP) database. The CFRS and FIP were created jointly by Justice and the RCMP, solely for the purposes of administering the Program, but the RCMP continues to manage the operation of both information systems. (Note: Databases discussed below.)

While all original application forms are maintained by the Central Processing Site and the Québec Processing Site, the personal information provided on the forms is also captured in the CFRS. The primary screening process is entirely automated, the results of which is recorded in the CFRS. In the event that a licence application requires additional investigation due to a CPIC

hit, for example, only the results of the investigation (approved or refused) with limited comments are entered in CFRS. The details about the secondary or tertiary screening investigation (such as police investigation reports and interview reports with spouses, neighbours or community leaders) are maintained by the provincial and territorial CFOs and/or their respective Area and Local FOs.

### **Canadian Firearms Registration System (CFRS)**

The CFRS is a fully integrated, automated information system that is used to enter, analyze, maintain and store all firearms-related information required under the **Firearms Act**. The CFRS provides administrative and enforcement support to all partners involved in the licensing of firearm owners/users, registration of all firearms, and the issuance of authorizations related to restricted firearms. This network links three areas of responsibility—the Central Processing Site (Justice), the provincial and territorial CFO offices, and the Canadian Firearms Registry (RCMP) by means of a secure national computer network. Data may be entered in one location, electronically processed in another, and access is obtained as required across the entire country.

Depending on the province, the CFRS can be shared among as many as the three levels of government (federal, provincial and municipal). The CFRS is not accessible to the private sector (i.e., gun dealers). The CFRS users include:

- the CPS in Miramichi and the QPS in Montreal for data capture, application processing, exception handling, financial administration, call centre, and records management purposes;
- the 13 CFOs (10 provinces and 3 territories) and their respective FOs for issuing licences and authorizations to carry and transport;
- the Registrar (RCMP) for firearms registrations and import/export authorizations, accreditation and verification; and
- police agencies across Canada for eligibility screening (tertiary field investigations), enforcement support, and recording of found, stolen, lost firearms.

### **Canadian Firearms Registry On-line (CFRO)**

The CFRO (a subset of the CFRS) is a component of the Canadian Police Information Centre (CPIC) designed to provide Canadian police forces with online information about registered firearms in a home or place of business. Police officers can obtain access to registry information from their vehicles or from a communications centre via CPIC. The information is read only and may be queried using name, address, telephone number, as well as the firearm's serial number, authorization number, certificate number, owner number, firearms identification number and licence number. The CFRO system receives an average of 1,800 queries per day.

On a daily basis, information that has been added to CFRS or changed within CFRS is transferred to CFRO. CFRO does not contain all of the information submitted on an application form. If a police officer requires information beyond what is in CFRO for investigation and

subsequent evidence, he or she must contact the Chief Firearms Officer about licence information and the Registrar about firearm and registration information.

### **Canadian Police Information Centre (CPIC)**

CPIC is a national automated law enforcement system used for the exchange of information among all 900 plus Canadian law enforcement agencies as well as federal and provincial government departments. CPIC is also linked to the international law enforcement community (the Federal Bureau of Investigation, INTERPOL). CPIC resides within the RCMP's National Police Services Network. While CPIC now contains approximately 3 million files generating over 79 million inquiries annually, not all of them are firearms-related files. Records are entered on CPIC directly by police agencies. The data integrity is controlled by the police agencies and files are audited by approved audit authorities.

The categories of information within CPIC that are routinely queried in the administration of the Firearms Program include Criminal Records/Criminal Name Index, Persons (i.e., prohibitions), Property (i.e., lost or stolen guns), Motor Vehicle Registration and Licence, Firearms Interest Police (FIP), and the Restricted Weapons Registration System (RWRS).

It should also be noted that in the province of Québec, access to CPIC is made by way of a system known as Centre de renseignements policiers du Québec (CRPQ). Our review did not cover the province of Québec.

### **Police Information Retrieval System (PIRS)**

PIRS is the RCMP's automated information management system used to store, update and retrieve information on operational case records/occurrences being, or having been, investigated. This electronic indexing system is used by the RCMP operational units, some municipal police agencies, by Firearms Officers (FO) across Canada, and by other federal partners. PIRS captures data on individuals who have been involved in investigations under the **Criminal Code**, federal and provincial statutes, municipal by-laws and territorial ordinances. According to the RCMP, in addition to details of an event in a brief synopsis (maximum of 240 characters), PIRS contains limited information relating to investigations and criminal histories. Unlike CPIC, which essentially contains factual information (e.g., charges and convictions), PIRS may also contain information provided by witnesses, victims and other associated subjects that can be highly subjective, as well as the names of the witnesses, victims, and acquaintances of the accused individual. PIRS also differs from CPIC in that it contains information on occurrences and incidents that never resulted in charges.

Operational Statistical Reporting System (OSR) codes identify all occurrences on PIRS in terms of the nature of the event for statistical profile purposes, while the police case number and originating agency (ORI) number are identified in FIP entries for use by FOs.

## Provincial and Municipal Police Information Retrieval Systems

Similar to the RCMP's PIRS database, Ontario has a police information retrieval system known as OMPACC, while Calgary has PIMS, Edmonton has PROBE, Regina has IRIS, etc. Formal and informal information sharing arrangements are in place between provincial and territorial CFOs and their police services boards or agencies for the exchange of information in these databases.

### Firearms Interest Police (FIP)

The FIP database was created in 1998 to meet the objective of section 5 of the *Firearms Act* by flagging those individuals who may be ineligible to hold a licence (**see 3<sup>rd</sup> page of Appendix E**). The RCMP is the custodian of the FIP database, while the policy and management centre for FIP (collection, quality control, operation, cost and effectiveness) resides with the Canadian Firearms Centre under DOJ. The Chief Firearms Officers across Canada have selected a list of police incident reporting codes that are used to populate the FIP database to satisfy the provisions of section 5 of the *Firearms Act*. There are over 900 law enforcement agencies across Canada that feed information for flags in FIP via the National Police Services Network. In addition, flags in FIP are sometimes entered by Program officials (e.g. spousal concerns entered by CFOs, FOs, AFOs, etc.). As of December 1999, there were 3,528,751 FIP records.

The FIP system was designed to alert CFOs and FOs, when screening applications for firearms licences, about individuals who have been involved in incidents of domestic violence, threats of violence, harassment, etc.; individuals with warrants for arrest; and individuals who have been refused licences and authorizations or who have attempted to bring firearms into or out of Canada without proper authorization. Any act of violence or threat of violence related to criminal activity, mental illness, or a history of violent behaviour, for example, can be entered into FIP even though it may not have resulted in criminal charges. A FIP entry does not result in an automatic refusal to issue a licence.

The amount of information produced as a result of a FIP hit is minimal. A FIP entry consists of name, date of birth, CPIC Originating Agency (ORI) number and the agency incident number. Police agencies across Canada record activities on FIP using established Universal Crime Reporting (UCR) codes and the RCMP uses the PIRS Operational Statistical Reporting System (OSR) codes. No information is revealed on FIP about the role of the individual or the type of incident. This is deliberate to reduce the potential for the misinterpretation and misuse of the data, since the person making the query has to contact the contributor to discover the facts of the case. FIP is intended to act strictly as a pointer, referring CFOs and FOs to other databases such as PIRS and similar provincial and municipal police databases or to the agency that entered the incident.

Most of the police contributions to FIP are done through the use of locally based, automated programs that extract tombstone data from agency incident systems and forward it to CPIC. However, police can also make a FIP entry manually, using a CPIC terminal, if the agency does not have an automated extract program. The CPIC system retains the entry in the FIP category for five years, after which it is automatically deleted unless the agency deletes the entry prior to the five years. For FIP to be effective in providing early warning signals of potential violence, it is



vital that police officers keep their incident reports accurate and up-to-date regarding the status of persons responsible for the incidents covered by section 5 of the ***Firearms Act***.

On a daily basis, the new FIP entries in CPIC are compared to information on persons listed in the firearms licence files in the CFRS, including applicants. If there is no match, then nothing happens. If a person in a FIP entry in CPIC later applies for a firearms licence, the FIP entry will be found during the initial licence screening process. If there is a match, CFRS will send a message to the Chief Firearms Officer of the province or territory in which the incident concerning the licence or applicant took place, indicating there is now a police file that may affect continued eligibility for a firearms licence. Again, this message includes only the name and age or date of birth of the person, as well as the case file number and CPIC ORI number.

A Firearms Officer then conducts what is known as a secondary investigation to ensure the match is valid. If the match is invalid, the event is removed from CFRS. If a positive match is found, the Firearms Officer will further investigate with the police agency involved to obtain more detailed information. This tertiary investigation will result in a recommendation as to whether or not a person should be issued a licence, or whether or not their licence should be revoked.

Though it is the responsibility of each CFO to ensure that all FIP hits against a CFRS client are thoroughly reviewed, FIP records are created by police agencies and data integrity is therefore controlled by the police agencies. This means that the reliability of the FIP database depends on the police agencies entering the data. Proper recording of public safety incidents should ensure that the FIP database is accurate and up-to-date. The RCMP accepts responsibility for only those records entered on FIP by RCMP detachments.

## **Hardcopy Records**

At the time of our review, DOJ maintained hardcopy personal information at:

- the Central Processing Site (CPS) in Miramichi, NB (mostly applications and primary screening records);
- the Canadian Firearms Centre in the National Capital Region (inquiries and ministerial correspondence from clients); and at
- the federally-administered CFO site in Newfoundland and in the Yukon Territory (secondary and tertiary screening records as well as information about safety course results).

While the RCMP maintained hardcopy personal information at:

- the Canadian Firearms Registry (CFR) in RCMP Headquarters (verification and accreditation files, registration certificates, and correspondence of CFRS clients, as well as tombstone identifying information about the 3,500 volunteer verifiers); and
- within the Federal Chief Firearms Officer Services and at each of the CFO sites of the five opt-out Northwest Region jurisdictions – Manitoba, Saskatchewan, Alberta, Northwest Territories and Nunavut (secondary and tertiary screening records as well as information about safety course results).

With the transfer of responsibilities from the RCMP to DOJ in March 2001, the personal information maintained by the CFOs in all seven “opt-out” provinces and territories (Alberta, Saskatchewan, Manitoba, the Yukon, Nunavut, the Northwest Territories and Newfoundland) is now maintained by DOJ.

The remaining CFO sites for the “opt-in” provinces (British Columbia, Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island) maintain all hardcopy program records with the exception of the initial applications and primary screening records that are held at the CPS/QPS. In these opt-in jurisdictions, the CFOs maintain the secondary screening records and safety course results while the tertiary screening files (field investigations) are primarily maintained by the municipal police agencies.

Also, at the time of our review, the Canada Customs and Revenue Agency (CCRA) did not yet hold any personal information about the Firearms Program clients since the effective date for custom declarations was January 1, 2001 and the effective date for imports/exports will be 2003.

## FINDINGS & RECOMMENDATIONS – PART I

For a **List of all Recommendations**, refer to **Appendix A**

### ACCESS & CORRECTION

One of the purposes of the federal **Privacy Act** is to give individuals a “right of access” to information about themselves held by a government institution. This includes, but is not limited to, a right to request correction of the information. Such a right is considered to be a fundamental element of fair information practices. This right is found in most personal information protection acts, including the new **Personal Information Protection and Electronic Documents Act**.

Under section 7(5) of the **Firearms Records Regulations**, an individual who wants personal information amended shall submit an application in writing to the Registrar or to the CFO in the province or territory in which the record was created. The **Firearms Act** and the **Regulations** do not provide individuals an explicit right of access to their information unless it is for the purpose of correcting their information.

In April 1997, a Parliamentary Sub-committee recommended that mediation mechanisms be established, on an administrative basis, to allow applicants the opportunity to challenge allegedly false or inaccurate information without resort to court action. The Government did not accept this recommendation because, in its view, investigative techniques already exist to ensure that decisions are not based on false or inaccurate information. While DOJ agreed to examine the investigative process to see if improvements should be made with a particular focus on privacy, the Government believed that mediation after the fact would not be appropriate and could be incompatible with the overriding safety objectives of the legislation.

The Canadian Firearms Centre Web site ([www.cfc-ccaf.gc.ca/general\\_public/factsheets/private\\_en](http://www.cfc-ccaf.gc.ca/general_public/factsheets/private_en).) states that “Any personal information collected under the new firearms legislation is protected by the basic principles of fair information practices found in the federal Privacy Act and in provincial privacy legislation.” Despite this claim, all Canadians cannot easily obtain access to information collected as part of the Firearms Program particularly given the multi-jurisdictional nature of the Program.

In the case of the seven opt-out jurisdictions (AB, SK, MAN, NWT, Nunavut, Yukon and NFLD), all records are administered federally, and thus subject to the **Privacy Act**. However, the Program records relating to the six opt-in jurisdictions (BC, ON, QC, NB, NS, PEI) are held by three levels of government (federal, provincial and municipal), and thus subject to a patchwork of privacy legislation. Even at the federal level the personal information holdings for this Program are held at various locations.

The dispersed holdings result in an uneven application of access rights. In March 1999, the Federal Chief Firearms Officer Services (FCFO) for the 5 opt-out jurisdictions in the Northwest Region issued its own Access and Privacy Requirements Bulletin and prepared a draft Personal

Information Policy Statement. Though the FCFO should be commended for this initiative, no consultation took place with the RCMP/Access to Information and Privacy (ATIP) office or with DOJ/ATIP. As a result, ATIP officials from the RCMP and DOJ are not in agreement with some of the policies and procedures outlined in the FCFO Bulletin in terms of what is and what is not considered personal information that a client would be entitled to receive and whether formal or informal requests should be submitted to CFOs or directly to the federal ATIP offices.

At this time, each partner, in responding to access requests, is processing the records in its custody and referring applicants to the other likely holdings (federal, provincial and/or municipal). For example, DOJ/ATIP is only processing CPS and CFC records (including CFRS extracts relating only to licences), and referring requests relating to the registration of firearms to RCMP/ATIP.

In addition, several problems exist with respect to requests for access and correction to records held in FIP. Any requests involving the FIP database are automatically referred to the RCMP for response. However, in turn, the RCMP is only processing FIP records that have been entered by the RCMP. When a request for a FIP printout is received at RCMP/ATIP and the information was entered by another police force, the RCMP exempts all the information referring to that entry as received in confidence because the RCMP does not know the circumstances for the entry, the sensitivity of the information, or other relevant details of the entry. The individual is then referred to the local police agency where a separate additional access request must be made. This results in delays due to individuals being referred from one office to another, and there are no established procedures to cancel, correct or remove unsubstantiated/innocuous FIP hits or those that fall outside of the requirements of section 5 of the **Firearms Act**.

Also, for example, an Ontario resident who applies for a firearms licence and registration certificate and who has been subject to the three levels of screening (primary, secondary and tertiary) would have to submit separate access requests to DOJ (Central Processing Site and Canadian Firearms Centre), the RCMP (Canadian Firearms Registry and FIP), the Ontario Provincial Police as well as to at least one local police agency. A fifth request may also be required if the CFO or Area and Local FO in Ontario also obtained additional information from a police agency outside the province. This is a tremendous burden on individuals who simply want access to their records collected under the **Firearms Act**.

Since not all provinces, territories and municipalities come under privacy legislation comparable to the federal **Privacy Act**, this results in uneven protection of individuals' privacy and rights of access and correction with respect to the Firearms Program records. For example, Prince Edward Island does not yet have any privacy law in place and only a handful of provinces in Canada have extended their privacy legislation to their municipalities. (**See Appendix F**)

The variations in the existing Memoranda of Understanding among the partners and levels of government have led to inconsistencies with respect to the control and ownership of the personal information – thus resulting in different access and correction procedures (**See Appendix G**).

## Personal Information Request Protocol

In April 1997 following Parliamentary Committee recommendation, the Minister of Justice undertook to negotiate information sharing agreements that would ensure that the federal **Privacy Act** would apply in cases where no provincial and territorial legislation exists. However, there are still no such agreements in place. As a temporary measure, DOJ issued in October 1999 a *Personal Information Request Protocol* to all provincial and territorial CFOs. The Protocol sets out DOJ's position with respect to ownership and control of Program records and how access requests "should" be processed.

According to DOJ's Protocol:

- though the CFRS is staffed and operated by federal employees, "ownership" of its contents is not possible since the information contained in the CFRS can be entered, modified and retrieved by all federal, provincial and territorial partners;
- a document is under the "control" of a government institution if it is within that institution's power to produce it; the ability to produce a record would encompass not only those records which that institution has custody of or is in direct possession of, but would also include records that are generally available to that institution including any record which that institution may access or retrieve by way of agreement;
- the nature of information sharing and gathering in the CFRS and the provisions of the **Firearms Act** giving reciprocal rights of access to the CFOs and the federally-appointed Registrar, give every partner the ability to produce the information; therefore everyone potentially has control of the information and is subject to personal information requests;
- all records received by the Central Processing Site (CPS) are stored on behalf of DOJ; the CPS is operated by federal employees and therefore all information within its control is subject to the federal **Privacy Act**; this includes original applications, primary screening as well as results and limited remarks of secondary and tertiary screening entered in CFRS;
- any other investigative records gathered during secondary and tertiary screening are not under federal control and thus not subject to federal privacy legislation;
- personal information requests received by DOJ are processed in accordance with the Treasury Board Guidelines on Privacy and Data Protection; DOJ consults with all parties concerned before a decision is made to release a record; for example, consultations are held whenever a request is received for information that has been entered into the CFRS by a provincial and territorial partner;
- DOJ informs a requester that the provincial or territorial institution may have information relevant to their request; and
- in cases where a request is received by the province/territory and there are relevant records stored at CPS, the provincial and territorial CFO will request those records directly from the federal CPS site.

Although the Protocol begins to capture the complexity of the ownership and control issues as well as the access problems, it fails to acknowledge the key issues with respect to the personal information holdings, sharing arrangements and actual practices. Among other things, the Protocol needs to:

- recognize the information holdings at the RCMP Canadian Firearms Registry (CFR);
- differentiate between the 7 opt-out jurisdictions (federally-administered) that do fall within the

federal **Privacy Act** and the 6 opt-in jurisdictions (provincially-administered) that do not, especially regarding secondary and tertiary screening records;

- address how individuals residing in PEI can obtain access to their information given that there is no comparable privacy legislation for that “opt-in” province;
- provide guidance to provincial and territorial CFOs as to whether or not tertiary field investigation files held by municipal police agencies should be gathered in response to access requests; and
- it should address all the access and correction issues associated with the FIP records.

The Protocol also raises an interesting point. While the provincial and territorial CFOs can pull records from the federal CPS site for processing access requests received at that level of government, DOJ cannot pull provincial and territorial records to process requests received at the federal level.

#### Recommendations:

1. All the existing Memoranda of Understanding (a.k.a Service Agreements) should be reviewed in order to standardize the control and ownership clauses.
2. DOJ should follow through on its promise to negotiate information sharing agreements with the provinces and territories. These agreements should apply to both electronic and hardcopy records and should also apply to the Firearms Interest Police (FIP) database as well as all federal, provincial and municipal police information retrieval systems. This would ensure that the personal information collected for the Firearms Program is protected in accordance with the intent and spirit of the federal **Privacy Act** and the principles of fair information practices, and that the Act applies in cases where no parallel provincial and territorial privacy legislation exists. In the event of a conflict between the federal **Privacy Act** and the provincial privacy acts (e.g. no correction rights at the provincial level), the agreements could expressly state that the federal **Privacy Act** would prevail.
3. In the interim, until DOJ puts in place appropriate information sharing agreements, the DOJ Protocol should be revised to:
  - recognize the information holdings at the RCMP Canadian Firearms Registry (CFR);
  - differentiate between the 7 opt-out jurisdictions (federally-administered) that do fall within the federal **Privacy Act** and the 6 opt-in jurisdictions (provincially-administered) that do not, especially regarding secondary and tertiary screening records;
  - address how individuals residing in PEI can obtain access to their information given that there is no comparable privacy legislation for that “opt-in” province;
  - provide guidance to provincial and territorial CFOs as to whether or not tertiary field investigation files held by municipal police agencies should be gathered in response to access requests; and
  - it should address all the access and correction issues associated with the FIP records.
4. Mechanisms should be in place to ensure that individuals have easy access to FIP records and the ability to correct or place a notation to file relating to disputed FIP entries. As such, consistent policies and procedures across Canada should be established, which would go beyond simply referring clients back to the source agency to ensure that corrections and/or notations are made in both the automated system and the original records.
5. Consideration should be given to creating a single access and correction point at the federal level. Given that the Program is administered through a federal statute, the provinces are fully funded by the Government of Canada, and that overall accountability for the Program

rests with DOJ, individuals should not have to go to as many as 4 to 5 different places to obtain access to their personal information. This should be negotiated as part of the information sharing agreements.

## Personal Information Banks in InfoSource

InfoSource is a publication issued by the Treasury Board Secretariat for the purpose of assisting Canadians in identifying and locating their personal information holdings within federal government departments and agencies.

During the course of our review, DOJ provided a draft description of a new personal information bank (PIB) entitled “Firearms Program Records”, which was to be issued in InfoSource. It stated:

*This bank contains applications and other information related to: the ownership, registration and use of firearms; the importation, exportation and other movement of firearms; the licensing of businesses and other entities; and the licensing of individuals under the Firearms Act and related Regulations. ...Information in this bank may be maintained in hard copy, on microfilm, and in automated form in the Canadian Firearms Registration System.*

This description in this PIB did not begin to capture the extent to which sensitive personal information is being collected (i.e. medical and criminal records). Also, it did not reflect the role of the RCMP and other partners, which could prove quite confusing not only to applicants but to the ATIP community as well.

In September 1999, the RCMP notified the Privacy Commissioner under section 9(4) of the **Privacy Act** of its intention to update bank CMP PPU 005 – Operational Case Records – to recognize that FOs have access to the RCMP’s automated Operational Case Records by way of the Police Information Retrieval System (PIRS). This proposed new “consistent use” is addressed later in this report as there are collection issues with respect to giving FOs full and open access to PIRS data.

In the 1999/2000 version of Info Source, the RCMP listed personal information bank CMP PPU 035 – Firearms Registration/Legislation Records, which covered only its previous responsibilities under the **Criminal Code** including maintaining the Restricted Weapon Registration System (RWRS) and the old Firearms Acquisition Certificates (FAC). There was no mention of the RCMP’s new responsibilities and personal information holdings as a result of the **Firearms Act** (i.e. CFR, FIP, Verifiers’ Network, etc.).

But then, subsequent to our Preliminary Report in September 2000, both DOJ and the RCMP issued new personal information banks in the 2000/2001 publication of InfoSource – JUS PPU 199 *Canadian Firearms Program* and CMP PPU 037 *Canadian Firearms Registration System*, respectively. While both departments should be commended for preparing such detailed bank descriptions, some problems remain. For example:

- While DOJ’s new PIB indicates that requests related to the Firearms Interest Police database (FIP) should be directed to the RCMP, the RCMP has not created a PIB for FIP

- (contrary to previous undertakings) nor is there a mention of FIP in its new CFRS bank.
- There is no mention by either DOJ or the RCMP about the personal information gathered relating to the qualifications of verifiers.
  - In DOJ's new PIB, it states that "Details of interviews and reports are held by the provinces and territories." But, this is not always the case since DOJ administers the Program for opt-out provinces and territories and maintains the records at the federal level. Only later in the PIB does it talk about the opt-in and opt-out differences. This can be quite confusing as it creates uncertainty as to whether they should apply federally, provincially or municipally, or to all three jurisdictions in order to obtain access to their personal information.
  - In DOJ's new PIB, it also states that "For PEI and the opt-out provinces...requests must be made to Justice Canada". But, immediately after it states that information collected by municipal or provincial police forces is not under the control of DOJ. Again, this is contradictory and could prove quite confusing to the average citizen. In addition, it remains unclear as to why all the records held in PEI would be under DOJ's control since this is an opt-in province. Also, this contradicts DOJ's other statements that residents in PEI can obtain access to their personal information at the provincial level.
  - In DOJ's new PIB, it also states that requests relating to training records should be sent to Justice. It remains unclear if DOJ has control over all training records – opt-in and opt-out jurisdictions.
  - Finally, it remains undetermined what personal information is being collected by CCRA since January 1, 2001.

#### Recommendations:

1. Before DOJ and the RCMP can finalize their personal information bank descriptions for Info Source, they need to resolve a number of issues associated with access and correction rights such as control of both hardcopy and automated records held in the various jurisdictions.
2. Any bank(s) in InfoSource should differentiate between DOJ holdings (i.e. CPS, CFC, CFOs in opt-out provinces and territories), those of the RCMP (i.e. CFR and Verifiers' Network), as well as those of the "opt-in" provinces.
3. Any bank(s) for the Firearms Program should describe CFRS and CFRO as well as the types of information collected for eligibility screening (i.e. criminal, medical, etc.) including the various sources such as references, guarantors, doctors, spouses, employers, CPIC, FIP, PIRS, etc.
4. The RCMP's Operational Case Records bank (CMP PPU 005) should specify to what extent FOs have access to the records via PIRS – an issue addressed as part of this review.
5. The Firearms Interest Police (FIP) database must be reflected in InfoSource.
6. The personal information relating to the qualifications of verifiers should also be recognized in InfoSource.
7. DOJ's bank description should clarify who has control over all training records – for both the opt-in and opt-out jurisdictions.
8. The new PIBs should also establish what personal information is being collected by CCRA since January 1, 2001, and refer to another PIB if necessary.



## **COLLECTION**

In addition to the large amount of personal information collected on application forms (see Findings and Recommendations - Part II of this report), the **Firearms Act** gives FOs very broad powers and discretion to investigate and gather additional information about applicants. Under section 55 of the **Firearms Act**, FOs have the right to ask applicants for additional information, or to conduct an investigation by contacting the applicants' references, photo guarantor, spouse, neighbours, aboriginal elders or leaders and others to determine if a licence should be issued. This next part of the review focuses primarily on the collection of information during secondary and tertiary screening.

### **Police Information Retrieval System (PIRS)**

PIRS is the RCMP's automated information management system that captures data on individuals who have been involved in investigations under the **Criminal Code**, federal and provincial statutes, municipal by-laws and territorial ordinances. In addition to details of an event in a brief synopsis (maximum of 240 characters), PIRS contains limited information relating to investigations and criminal histories. Unlike CPIC, which essentially contains factual information (e.g., charges and convictions), PIRS may also contain information provided by witnesses, victims and other associated subjects that can be highly subjective, as well as the names of the witnesses, victims, and acquaintances of the accused individual. PIRS also differs from CPIC in that it contains information on occurrences and incidents that never resulted in charges. Operational Statistical Reporting System (OSR) codes identify all occurrences on PIRS in terms of the nature of the event for statistical profile purposes, while the police case number and originating agency (ORI) number are identified in FIP entries for use by FOs.

Initially, with the creation of the FIP system, PIRS was intended to be used by CFOs and their staff strictly as a pointer directing them to the originating agency's occurrence report, and only following a FIP hit showing a PIRS file. Then, in 1998, the RCMP informed the CFOs that their staff would be provided with full PIRS query access, but with the following conditions outlined in an MOU:

- the PIRS data base is to be used only by authorized personnel with an enhanced security clearance and who have had appropriate training on the use and limitations of the system;
- under no circumstances are eligibility decisions to be based solely on information retrieved from the PIRS data base; the records in PIRS are by no means exhaustive in nature and it is incumbent on each CFO and his/her staff to confirm the contents of any record with the originator prior to considering any action;
- PIRS queries are to be limited solely to information that is necessary for eligibility processing, investigations and proceedings under the **Firearms Act**, **Criminal Code** or court order; and
- subject queries should include appropriate subject information such as surname, given names, sex and date of birth, to limit the search to appropriate responses.

However, it was not until a year later (in September 1999) that the RCMP notified the Privacy Commissioner, as required by section 9(4) of the **Privacy Act**, of its intention to amend the "Consistent Uses" portion of the Operational Case Records bank in Info Source to reflect that FOs were granted full access privileges to the records by way of PIRS.

Providing FOs with full access to PIRS raises a number of concerns:

- PIRS records have data quality problems. The PIRS Policy Centre, within the RCMP, has expressed a concern that decisions are being based on records that frequently contain inaccurate accounts of investigations, including inaccurate subject status codes. Section 6(2) of the **Privacy Act** requires that all reasonable steps are taken to ensure that personal information used to make an administrative decision about someone is as accurate, up-to-date and complete as possible.
- Despite RCMP PIRS Policy, the information found on PIRS is not being verified with the contributing agency most of the time. Due to workload requirements, FOs are only checking the contributing agency file if a licence application requires a more in-depth investigation or if the application will be refused based on PIRS data. If the FO is satisfied that the information obtained on the PIRS terminal is not a match to the client, or that the information falls outside of section 5 of the **Firearms Act** (not a threat to public safety), the originating police agency's file is not verified.
- PIRS contains information about "associated" subjects that are not CFRS clients (e.g., witnesses, victims, etc.). Thus, FOs are routinely privy to considerable personal information that is normally not relevant to their decision-making process.
- Since the RCMP and all police agencies contributing to PIRS already screen operational case files to identify PIRS entries with relevance to section 5 of the **Firearms Act** for automatic flags in FIP, FOs should only consult PIRS as a result of a FIP hit and by using Screen 20 along with the police case number and originating agency (ORI) code provided in FIP. However, FOs have full and open access to PIRS. Checks that are not a result of a FIP hit are done using screen 22 instead, which only requires name and date of birth.

While the CFOs in the Northwest Region insist that they cannot function without PIRS, the CFO in Ontario does not have a PIRS terminal nor does that CFO see the need for one. Through an informal arrangement, the Ontario CFO has the Nova Scotia CFO check PIRS an average of six times a week. Even though Ontario has a high volume of licence applications the CFO can function well using this intermediary. In response to our Preliminary Report, in January 2001 Justice officials explained that Ontario has a limited need for PIRS because that province has a parallel system called OMPPAC (Ontario Municipal Provincial Police Automation Contact). However, our review confirmed that other provinces, like some in the Northwest Region, also have parallel police information retrieval systems but still insist on using PIRS as well. We are not convinced that PIRS terminals are needed in all of the jurisdictions.

Within the RCMP community the use of PIRS has been an extremely sensitive issue. Some RCMP officers support the FOs' use of PIRS while other RCMP officers are opposed. The RCMP ATIP and IT groups are adamant that tighter controls need to be in place to limit the use of PIRS by FOs, and that all PIRS data should be verified with the originating agency. Some RCMP officers have even indicated that PIRS terminals should be removed completely from CFO sites to ensure that the RCMP does not lose control over the use of this "police" data.

#### Recommendations:

1. PIRS terminals in CFO and FO offices should only be available for those jurisdictions that do not have parallel police information retrieval systems.

2. Access to the PIRS database should be tightened by restricting FOs to limited, specific and relevant information only. FOs should not be granted open and full access to PIRS.
3. Since the RCMP and agencies contributing to PIRS already screen Operational Case Files to identify entries relevant to section 5 of the **Firearms Act** for flags in FIP, FOs should request PIRS checks only following a related FIP hit. As such, all searches on PIRS should be conducted using Screen 20 only and with the case number and originating agency (ORI) code as a search tool.
4. FOs should be restricted from using Screen 22 (which allows searches by using only the name and date of birth). This screen is used for more general and wider searches by law enforcement agencies. FOs already have access to CPIC for this purpose.
5. Since it is technically possible to restrict access to PIRS to certain screens, FOs should be restricted from having access to information about associated subjects (e.g. witnesses and victims) linked to CFRS clients. In those rare cases where information about associated subjects is required, Firearms Officers should request this information directly and in writing from the RCMP.
6. All PIRS information used by a FO to make an administrative decision about an individual who has been positively identified as a CFRS client should be verified with the contributing agency—regardless of whether it is an approval, refusal or revocation process.
7. Verification should be made to ensure that the PIRS database is used only by authorized personnel with an enhanced security clearance, followed by a refresher course on the appropriate use and limitations of the system.
8. Retention and disposal policies should be instituted to extend retention periods of originating agency files as a result of any activity linked to FIP PIRS data.
9. Similar to the well-developed CPIC audit functions, the RCMP should establish and implement an automated PIRS audit function to ensure that complete, up-to-date and accurate information is gathered on PIRS and to ensure the proper use and protection of PIRS data by FOs.
10. The existing Memoranda of Understanding with each province and territory specific to the use of PIRS data should be amended accordingly, and related national policies and procedures should be drafted.

## **Provincial and Municipal Police Information Retrieval Systems**

Similar to the use of the RCMP's PIRS database, access by FOs to provincial and municipal police information retrieval systems (i.e., Ontario's OMPPAC, Regina's IRIS, etc.) is intended to ensure that all relevant material is available to assist FOs in making informed decisions about CFRS clients. However, caution should be exercised to ensure that only the information that is needed to administer the **Firearms Act** is exchanged between local police agencies and FOs.

It was also noted that the MOU between the Ontario Ministry of the Solicitor General (OPP/CFO) and the Ontario Police Services Board fails to cover the use of the police information retrieval system in Ontario called OMPPAC.

### Recommendations:

1. Similar to the recommendations made with respect to PIRS, the same access restrictions should be applied relating to all provincial and municipal police information retrieval systems in Canada that are used to make decisions about individuals under the **Firearms Act**.

2. Likewise, any Memoranda of Understanding relating to the provincial and municipal police information retrieval systems should be amended accordingly, and the specific databases used by FOs should be covered in the MOUs.

### **Firearms Interest Police (FIP)**

In order to meet the objective of section 5 of the *Firearms Act*, the FIP database was created in 1998 with five years of back data from police agencies for the purpose of flagging individuals who might not be eligible to hold a firearms licence. These are individuals who have been involved in incidents of domestic violence, threats of violence, harassment, etc.; individuals with warrants for arrest; and individuals who have been refused licences and authorizations or who have attempted to bring firearms into or out of Canada without proper authorization. Any act of violence or threat of violence related to criminal activity, mental illness, or a history of violent behaviour, for example, can be entered as a flag in FIP even though it may not have resulted in criminal charges. (see 3rd page of Appendix E)

The problem with FIP is not the amount of information it holds about individuals—the amount is limited and factual (name, date of birth, incident code and number). However, the data captured during the initial inception of FIP varies because different police agencies had different incident reporting codes for similar police incidents. As a result, in some cases, the database contains entries on individuals who should never have been flagged as they do not meet the ineligibility criteria under section 5 of the *Firearms Act*. A FIP hit sometimes directs the FO to unsubstantiated and derogatory information, unproven charges or allegations, hearsay, records that are older than 5 years, incidents and charges that have been cleared or acquitted, duplicate entries as well as information about witnesses, victims of crime and various other associated subjects. People are unaware that they are being flagged in FIP as possible risks to public safety. Also, inaccurate information on FIP or information that has already been the subject of a previous investigation and cleared, is used over and over.

In January 2001 in response to our Preliminary Report, DOJ indicated that a new software application has since been implemented to reduce the problems associated with the extraction and upload of incorrect data to FIP. DOJ continues to work towards establishing and implementing common police agency extract standards and procedures. For example, as a result of one of our recommendations, the extract codes were recently modified in an effort to ensure that information on subjects who are simply “associated” with FIP files (e.g. witnesses and victims) will no longer be included in FIP. While the problems have been reduced, they are not eliminated due to the five years of back data that was first used for the upload.

Like any other record maintained on CPIC, the originating agency, or contributor, has the capability of manually adding or deleting a record from the FIP file. The audit requirements of the CPIC policy manual dictate that a record must exist in the police agency database to support the FIP entry on CPIC. Police agencies that create an entry in their local police index and subsequently remove the entry because the suspect was cleared, are also obliged to remove the FIP entry from CPIC. Should an error come to the attention of a FO during the course of an investigation, the FO is supposed to contact the originating agency. It is up to the agency to make a determination if the record is no longer relevant and to make the necessary corrections. The RCMP claims responsibility for only those records entered on FIP by RCMP detachments.

At this time, neither the RCMP nor DOJ has a framework or methodology in place to verify how many of the FIP records fall outside of the requirements of section 5 of the **Firearms Act**. In addition, outside of the formal channels under the **Privacy Act**, there is no way of knowing how many times a FIP file has been subject to a correction request (formal or informal). Each contributing agency would have to be canvassed to determine how many police occurrence reports have been subject to correction requests and whether any related FIP entries have actually been corrected. There is no way of knowing if all 900 plus contributing agencies are keeping such records.

#### Recommendations:

1. Since DOJ's Canadian Firearms Centre is responsible for issues respecting data quality on FIP and in conformity with section 6(2) of the **Privacy Act** (accurate, complete and up-to-date information), there should be an auditing framework to verify the validity and accuracy of FIP records.
2. The Canadian Firearms Centre FIP Project Team should continue to work towards establishing and implementing common police agency extract standards and procedures, and a copy of the report(s) of improvements should be provided to the Privacy Commissioner.

### **Social Insurance Number (SIN)**

Initially, the Canadian Firearms Centre applications for possession and acquisition of licences required applicants to list two types of identification. The application forms, which are issued by DOJ, provided the following examples to applicants: "passport, driver's licence, health card, birth certificate, social insurance card, citizenship certificate, landed-immigrant document or other similar document". The Canadian Firearms Program is not listed as an authorized user of the Social Insurance Number in the Treasury Board's 1989 Policy on Data Matching and Control of the Social Insurance Number, nor is the use of the SIN authorized under the **Firearms Act** or its **Regulations**. We are pleased to report that, during the course of our review, the forms were redesigned and the reference to "social insurance card" has been removed.

### **Collection from Credit Reporting Agencies**

The FOs' Investigation Guide, prepared by the Ontario Transition Team, indicates that confirming information in the application can include searching or consulting Credit Bureau files. Though the licence applications ask if an individual has experienced a bankruptcy, we question why FOs need to search Credit Bureau files, how frequently these files are being searched and for what specific purpose.

#### Recommendations:

1. Policies and procedures should be implemented regarding the collection of personal information from credit reporting agencies, and a copy should be provided to the Privacy Commissioner.

## **Telephone Monitoring at the Central Processing Site (CPS)**

Employees' telephone conversations are being monitored randomly at the CPS in Miramichi for quality checks and performance appraisal purposes. A report is usually written and then shared with the employees concerned; however, a recording of the actual conversation is not retained. Currently, only DOJ FOs are provided with a written notice that they must sign. The remaining 280 HRDC employees are simply told of the telephone monitoring when they are hired.

At this time there is no recorded message to callers informing them that their conversations may be monitored. Although this is something that management was addressing as a result of our review, there was no intention of giving an opt-out by switching callers to a "clean" line should privacy concerns be raised. Though the calls coming into the CPS 1-800 line are not being recorded and tapes are not collected, local police are apparently of the view that all calls need to be recorded and retained because CPS receives at least one threat each month.

In response to our Preliminary Report, in January 2001 DOJ agreed to undertake the following recommendations that will require follow-up by our Office:

1. All employees (DOJ and HRDC) should receive the same written notification that their conversations may be monitored for quality checks and performance appraisal purposes.
2. The system should generate an automatic message to CFRS clients to inform them that their conversations may be monitored. Clients should have an opt-out and be transferred to a "clean" line should privacy concerns be raised.
3. Specific procedures and policies should be in place to establish if and when recordings will ever be retained. For example, if a manager refers to a monitored call as supporting information in a performance appraisal or a disciplinary note, then there would be a requirement to record and keep that conversation. Also, the policies and procedures should mention any other situations that may warrant recordings, such as monitoring abusive callers that end up becoming law enforcement matters.

## **Information Obtained from Former Spouses**

Applicants are required to provide information relating to any former spouses or partners. These former spouses or partners are notified and asked whether they know of any reason why the applicant should not be granted a possession acquisition licence. Also, spouses sometimes provide information through the 1-800 line, which may trigger an investigation. Between December 1, 1998 and September 2, 2000, the new spousal notification line had received over 10,200 calls. While this may be an easy way for an applicant's spouse (or others) to share concerns about public safety, in cases where former spouses or partners harbour ill feelings toward the applicant, this could result in inaccurate or totally false information being collected. In all cases, the CFO evaluates the concerns expressed which may result in a refusal.

Also, while exemptions exist under most privacy legislation to protect the safety of individuals and the sources of information, the information could be made available to applicants.

Recommendation:

1. There should be consistent national policies and procedures addressing both the collection of information from spouses as well as the disclosure of information about them.

## **DISCLOSURE**

### **Disclosure to Employers**

Business licence eligibility is contingent upon the employees' eligibility to possess firearms. This is the case, for example, in the armoured car industry where all the guards are required to have licences. As part of the duties of a CFO, a business owner would be advised that his/her licence eligibility is in jeopardy when one of the employees is no longer eligible to hold a licence under the ***Firearms Act***. According to internal policy within the Federal Chief Firearms Officer Services in the Northwest Region (opt-out jurisdictions), the name of the employee would be released to the business owner, but not the circumstances surrounding the refusal/revocation. The business owner can interview the employee to determine why he or she is no longer eligible but that is between the employer and the employee. The practice adopted by the Northwest Region is a reasonable balance between the administration of the ***Firearms Act*** and the ***Privacy Act***.

Recommendation:

1. Policies and procedures should be instituted at a national level to ensure that best practices are in place in all 13 provinces and territories with respect to the disclosure to employers to ensure that their employees' privacy is respected in situations of refusal or revocation of firearms licences.

### **Disclosure to Local Police Agencies**

It was noted in the Memoranda of Understanding between the Federal Chief Firearms Officer Services in the Northwest Region and their local police agencies that "full disclosure to each other of all relevant information" is encouraged and that the "CFO agrees to provide information to the police on the result of any information into the eligibility of a person to possess a firearms licence". It appears that such releases are few and far between and done informally and verbally between FOs and local police. The necessity of disclosing the results of firearms licence applications to local police agencies who are not administering the ***Firearms Act*** is questionable, especially since police officers have access to the Canadian Firearms Registry On-line (CFRO) database for law enforcement purposes.

In response to our Preliminary Report, in January 2001 DOJ agreed that any routine disclosures across Canada about firearms licence application results to local police agencies should be discontinued unless it is for law enforcement purposes.

### Recommendations:

1. The Memoranda of Understanding between the Federal Chief Firearms Officer Services in the Northwest Region and their local police agencies should be amended to reflect that disclosures to local police officers who are not FOs should be for law enforcement purposes only, and a copy of the revised MOUs should be provided to the Privacy Commissioner of Canada.
2. The Memoranda of Understanding in all other provinces should be reviewed and amended accordingly, and a copy of these MOUs should also be provided to the Privacy Commissioner of Canada.

### **Disclosure to Chief Firearms Officers**

DOJ officials at the CFC and CPS were automatically notifying, within 72 hours, provincial and territorial CFOs of any access request made under the **Privacy Act**, even when these other jurisdictions had no interest in the records being sought. CFOs said that they did not want to risk an improper disclosure by DOJ officials that could potentially interfere with an ongoing investigation.

However, if an application for a licence passed primary screening and there were no CPIC or FIP hits, there should not have been any reason to consult the province to see if there would be any objection to the release of the information to the applicant. Only in those cases where secondary and tertiary screening was required, or where the province is or was involved in some form of lawful investigation of relevance to the **Firearms Act**, would there be a need to consult with the respective CFO.

In response to our Preliminary Report, in January 2001 DOJ confirmed that this notification was discontinued during our review. CFOs are now only notified of a **Privacy Act** request on a need to know basis— that is if there had been or still was some form of lawful investigation pertaining to the applicant—the disclosure of which could prove injurious to their investigation or to the administration of the **Firearms Act**.

### **Disclosure to Public through Appeal Process**

In a Parliamentary Committee appearance in 1997, the former Privacy Commissioner suggested that an administrative appeal process be created to deal with any appeals against a refusal of application. We continue to believe that requiring all unsuccessful applicants to challenge refusals in a court of law could result in the public disclosure of personal information that may or may not be accurate or truthful.

### Recommendation:

1. An administrative process should be created to review decisions and all supporting information in private. The court process could be retained as a final level of appeal.



## **PROTECTION & SECURITY**

Section 8(2)(f) of the **Privacy Act** provides that personal information may be disclosed under an agreement or arrangement between the Government of Canada and the government of a province or territory for the purpose of administering or enforcing any law or carrying out a lawful investigation. Section 8(2)(f) accommodates practices whereby personal information is exchanged between federal police, security and investigative bodies and their counterparts, both domestically and internationally.

The Treasury Board (TB) “Policy on Privacy and Data Protection” requires that disclosure under section 8(2)(f) be made in accordance with a formal, written agreement or arrangement. Similarly, the TB “Government Security Policy” stipulates that departments must ensure, through written agreements, the appropriate safeguarding of sensitive information shared with other governments and organizations. At a minimum, such MOUs should contain:

- a description of the personal information to be shared;
- the purposes for which the information is being shared and is being used;
- a statement of all the administrative, technical and physical safeguards required to protect the confidentiality of the information, especially in regard to its use and disclosure;
- a statement specifying whether information received or disclosed by the federal government, or in the hands of provincial and municipal agencies, will be subject to the provisions of the **Privacy Act** (i.e. access and correction/notation); and
- a statement that the sharing of the information shall cease if the recipient is discovered to be improperly disclosing the shared personal information.

With such a dispersed information-sharing program, there are obvious physical, personnel and information technology security requirements. Though DOJ has not yet issued information sharing agreements, the existing “service” agreements contain some security-related clauses.

For example, clause 13.0 of the 1998 MOU between the DOJ and Human Resources Development Canada stipulates that both parties share the responsibility of ensuring that “*security measures implemented for the safeguarding/privacy of DOJ information will be in accordance with the applicable federal/provincial information access and privacy legislation.*” Schedule “F” of the agreement, to which clause 13.0 of refers, provides that HRDC employees:

- shall not disclose personal information to anyone;
- shall not use the personal information for any purposes other than those provided for under this contract;
- shall not make any copy of the personal information except with the written consent of DOJ;
- shall return all personal information and any copy thereof at any time, at the request of DOJ;
- shall take whatever action is necessary to ensure that all additional individuals hired to complete the work under this contract are made aware of, and fully comply with, all provisions of this clause; and
- HRDC will not collect any personal information, as defined in section 3 of the **Privacy Act**, on behalf of the DOJ.

This last bullet is rather odd given that the primary role of the HRDC staff at the Central Processing Site in Miramichi is to collect personal information from CFRS clients on behalf of DOJ. In response to our Preliminary Report, in January 2001 Canadian Firearms Centre officials explained that the intent of this clause is to ensure that HRDC does not collect personal information for its own purpose and that the clause should be phrased differently.

Clause 12.0 of the 2000 MOU between DOJ and the RCMP indicates that both DOJ and the RCMP are collectively responsible for ensuring that such “*security measures implemented for the safeguarding/privacy of DOJ information will be in accordance with the applicable federal/provincial information and privacy legislation.*” Clause 12.0 further provides that the RCMP “*will ensure implementation and compliance of the standards for the transport and transmittal of sensitive information in accordance with Government Security Policy. DOJ will be responsible for the destruction of sensitive information or will provide a certificate authorising the RCMP to destroy sensitive information.*” Sensitive information is not defined.

These agreements are not “information sharing agreements” as defined in the Treasury Board policies. Consequently, these agreements do not conform to the conditions for the sharing of personal information stipulated in those guidelines. The MOU establishes the broad framework or architecture within which powers will be exercised for the purpose of administering the **Firearms Act**. The collection, use and disclosure of personal information within this scheme are but one component in the overall administration of the Program, not the subject of the agreement itself. It is clear in many instances that specifics relating to protection of personal information between the parties would be worked out later, as the need arises.

Though the Review Team conducted only a preliminary review of the security measures instituted by the Canadian Firearms Centre and some of its partners, it would appear that adequate physical, personnel, and information technology security measures have been instituted to protect personal information against unauthorized disclosure. The security measures include:

- the use of physical barriers, security zones, and containers to restrict access;
- the use of secure telephone lines;
- explicit staff responsibilities and security procedures for the processing, storage, transmission and disposal of sensitive information;
- enhanced reliability checks of all employees;
- specific procedures in dealing with clients. For example, retail outlets are able to find out if they can have clearance to sell a firearm to a specific customer, but they do not have access to information about why a particular clearance is not granted;
- RCMP Threat and Risk Assessments have resulted in high level configurations and security domains (designated Protected B); advanced technology to protect the CFRS against tampering or unauthorized entry (i.e. encryption for business-to-business transfers);
- the use of software, hardware and operating system access controls by both the RCMP (CPIC/FIP and PIRS) and the DOJ (CFRS); each type of user has a different level of access; only the federal, provincial and municipal jurisdictions have access to CFRS; no one in the private sector has access to CFRS; and
- data on the number and types of firearms owned is separate from the owner’s name and address, and is protected by a unique firearms identification number so that even if a security breach takes place, it would be difficult to link the two categories of data.

It was noted at the Central Processing Site in Miramichi that limited use was being made of unsecured fax machines. Also, transfers of non-restricted, restricted and prohibited firearms applications can now be submitted by fax to CFOs. This service is available for transfers involving a licensed business (i.e. business to business, business to individual, individual to business and consignment sales).

#### Recommendations:

1. Justice has so far provided **Privacy Act** awareness sessions to CPS staff only. Though employees at CFO sites appear to be aware of their obligations with respect to the protection of personal information in their custody, such training should be instituted program wide and to all employees on a regular basis. This should go beyond the privacy training provided with respect to the use of RCMP databases such as CPIC and PIRS.
2. A security audit framework should be developed for the CFRS, while audits of the CFRO and FIP should be covered by way of the CPIC audit cycles. These audits should be instituted as soon as possible.
3. Policies and procedures should be implemented relating to the transmission of personal information by fax.

#### **Verifiers' Expanded Role**

The role of the 3,500 volunteer verifiers has increased in the past year in order to assist in the processing of a high volume of applications. In addition to verifying firearms to record the accurate description on the registration forms, the role of the verifier now includes assisting individuals in completing licence application forms and turning them over to the Central Processing Site.

#### Recommendations:

1. Policies and procedures should be implemented to ensure that the necessary security measures are in place with respect to the handling of personal information by volunteer verifiers.
2. All volunteer verifiers should receive privacy training.

#### **RETENTION & DISPOSAL**

The **Firearms Act** and the **Firearms Records Regulations** set out the rules regarding the retention and disposal of records in the custody of the Canadian Firearms Registry and Chief Firearms Officers (see **Appendix E**). To summarize:

- registration certificates that are issued or revoked, which are kept in the Canadian Firearms Registry (RCMP), are retained indefinitely, while registration certificates that are refused are destroyed 10 years after the last administrative action;
- all processing records pertaining to licences and authorizations that are kept in the

Canadian Firearms Registry or by Chief Firearms Officers are destroyed 10 years after the last administrative action; and

- all other records are kept until the death of an individual, including:
  - records related to the Canadian Firearms Safety Courses, equivalency tests or certification (as being skilled in the use of firearms);
  - records of prohibition orders (unless the orders have expired and the individual meets firearms safety course requirements);
  - information about prohibition or protection orders from the criminal justice system (conditions related to bails, probation orders or parole, etc.).

During the course of our review of the Program's personal information handling practices, discussions were initiated regarding records management responsibilities. However, it would appear that DOJ has not yet put in place any specific practices, policies or procedures to meet the retention and disposal requirements and, as such, a number of issues remain outstanding.

Recommendations:

1. DOJ should implement as soon as possible, and report to the Office of the Privacy Commissioner, the specific policies, procedures and practices to meet the prescribed retention and disposal requirements of the ***Firearms Act*** and ***Regulations*** as well as the ***Privacy Act*** and ***Regulations***.

## FINDINGS & RECOMMENDATIONS – PART II

For a **List of all Recommendations**, refer to **Appendix A**

### PERSONAL HISTORY QUESTIONS ON THE FIREARMS LICENCE APPLICATION FORM

#### Introduction

The current “Application for a Licence under the *Firearms Act* (for Individuals aged 18 and over)” requests a significant amount of personal information (**see Appendix I**). Part D of the application—the six “Personal History” questions—requires everyone who owns a firearm or wishes to acquire one to answer a series of questions about past convictions, suicide attempts, treatment for various problems such as alcohol abuse and emotional problems, the breakdown of relationships, the loss of a job and other matters.

Our office has received a number of complaints and inquiries about the intrusiveness of the personal history questions. At present, we have four outstanding complaints concerning these questions. Although the previous Privacy Commissioner determined that similar complaints were not well-founded, the current Commissioner decided that it would be appropriate to take a fresh look at the personal history questions as part of our Review of the Personal Information Handling Practices of the Canadian Firearms Program.

Our initial examination concluded that we should focus our review on questions 19(d) to 19(f):

- “19(d) During the past five years, have you threatened or attempted suicide, or have you been diagnosed or treated by a medical practitioner for: depression; alcohol, drug or substance abuse; behavioural problems; or emotional problems?”
- 19(e) During the past five years, do you know if you have been reported to the police or social services for violence, threatened or attempted violence, or other conflict in your home or elsewhere?”
- 19(f) During the past two years, have you experienced a divorce, a separation, a breakdown of a significant relationship, job loss or bankruptcy?”

Our review focussed specifically on the justification for these questions under section 4 of the *Privacy Act*. Section 4 states that “no personal information shall be collected by a government institution unless it relates directly to an operating program or activity of the institution.” According to the Treasury Board Manual, *Privacy and Data Protection*, an institution must have “parliamentary authority for the relevant program or activity, and a **demonstrable need** for each piece of personal information collected in order to carry out the program or activity.” (emphasis added)

## Assessing Eligibility

Section 5 of the **Firearms Act** states, “A person is not eligible to hold a licence if it is desirable, in the interests of the safety of that or any other person, that the person not possess a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition or prohibited ammunition.”

The current application is in two parts: the first part is for a Possession-only Licence (POL); the second part, to obtain a Possession and Acquisition Licence (PAL), has to be completed by someone who wishes to acquire a firearm. The personal history questions are part of the POL application, which everyone who owns a firearm or wishes to acquire one must complete.

Individuals applying for a PAL are required to provide additional information—the names, addresses and telephone number(s) of current and former spouses or common-law partners. The current and former spouses/partners must sign the application. The form states that they will be contacted if they have not signed the form. A telephone number is provided on the form that current and former spouses/partners can use to express any safety concerns they might have.

In addition, the PAL application requires two references. These individuals have to attest that they have read the information provided, that it is accurate to the best of their knowledge, and that they know of no reason why the applicant should not be given a licence to possess and acquire firearms. The requirement that an individual providing a reference review the information supplied by the applicant may involve the disclosure of information not previously known to the reference. For example, the individual providing the reference may have been unaware that the applicant had been treated for alcohol abuse or been convicted of one of the specified offences. Our office has an outstanding complaint that specifically raises this issue.

Eligibility is assessed using information from several sources:

- The applicant through the application process—this includes responses to the personal history questions;
- Databases such as the Canadian Police Information Centre (CPIC) and Firearms Interest Police (FIP);
- Spouses or others who may volunteer information; and
- The secondary and tertiary screening processes (secondary or tertiary screening only takes place if the application form or database search identifies a potential problem).

In a previous letter to our office, counsel from the Department of Justice (DOJ) indicated that the Government of Canada: “has a responsibility to its citizens to err on the side of public safety. From this perspective, it is essential that those making decisions regarding the ownership of firearms should be given all potentially relevant information in order to ferret out potential problems. Therefore, people who are at risk of misuse, whether through suicide, homicide to domestic violence should be screened in order to ensure that they are stable enough to possess a firearm”.

The three personal history questions that concern us—19(d) to (f)—are not intended to identify individuals who clearly pose a threat to society because of past criminal activities. These individuals should be “captured” by screening applications against the CPIC and FIP and by the responses to questions 19(a) to (c). Questions 19(a) to (c) ask about previous charges or convictions under the **Criminal Code** and other statutes, peace bonds, and prohibitions from possessing firearms.

Questions 19(d) to (f) are intended to identify individuals who may not have a criminal record or been involved in illegal acts but may nonetheless pose a threat to themselves or others because they are in situations or experiencing problems that increase the possibility that they will misuse a firearm.

### **Studies Provided by DOJ**

In response to previous concerns we had raised about these questions, DOJ provided us with some studies that it believes support the inclusion of these questions on the application form. In response to a letter the Privacy Commissioner sent to the Deputy Minister of Justice and Deputy Attorney-General, indicating that he intended to re-assess whether the questions about personal history on the firearms licence application form meet the **Privacy Act** collection requirements, DOJ identified further studies that it believes support the questions.

According to DOJ: “there is strong evidence which indicates that individuals face a greater risk of violence, whether to themselves or others, during periods of stress... . The items under question target stressful life events, such as depression or suicidal impulses, relationship breakdown, and personal traumatic events, such as the loss of a job or financial difficulties. An assessment of the research reveals that life stress is one of the most prominent factors in the prediction of possible violence.”

DOJ believes that the research studies support asking the personal history questions for two interrelated reasons:

- The studies identify “stressful life events” that are reflected or captured in the questions; and
- The presence of these stressful events increase the possibility that an individual will misuse a firearm.

In the quotation above, DOJ claims that “the research reveals that life stress is one of the most prominent factors in the **prediction** of possible violence.” As discussed more fully below, the authors of these research studies do not claim to be able to predict violent behaviour.

The 15 studies that we have received from DOJ (**see Appendix J**) fall into three broad categories:

- Three sets of statistics, with some analysis, from the Canadian Centre for Justice Statistics;
- Two—the Abt Associates and the Nadeau studies—focus primarily on the questions on the Firearms Acquisition Certificate application. This was used prior to the introduction of the **Firearms Act**.
- The balance of the studies attempt to identify risk factors associated with suicides, domestic

homicides, and domestic violence involving firearms. Typically, these studies start with a set of incidents, for example all Canadian domestic homicides involving firearms in 1989 and 1990; all youth suicides that occurred in Manitoba between 1984 and 1988 or all intimate femicides (women killed by a current or former spouse or boyfriend) in Ontario between 1991 and 1994. The studies then use police records, coroners' reports and other records to identify factors common to these incidents.

Three of the studies are American; one is British, and the other ten are based on Canadian data.

Our review of these studies addressed two issues:

- the extent to which the research studies that DOJ has given our office establish a link between certain risk or stress factors and the violent misuse of firearms; and
- whether or not the personal history questions adequately capture these stress factors.

For the purposes of assessing questions 19(d) to (f), the last group of studies is the most relevant. These studies identify stressful life events, or risk factors, that tend to be present in the violent incidents being analyzed. In addition, DOJ has given us two summary documents. We also reviewed two documents that are available on the Canadian Firearms Centre's web site. These studies, by Thomas Gabor and Yvon Dandurand, review the literature on the use of firearms in connection with accidental deaths, suicides and violent crimes.

As Dandurand notes in his literature review, a considerable portion of the research that has been done in this area "is best characterized as advocacy research"—research that was "conducted and often also funded for the conscious or unconscious purpose of advancing a particular point of view or advocating a particular social response to perceived problems."<sup>1</sup> Although Dandurand acknowledges that because advocacy research tends to be conducted by people who really care about a problem this does not necessarily imply that the conclusions of such research are less valid. However, he goes on to note that "one must be cautious in interpreting and using the findings of advocacy research."

### Domestic Homicides

The studies provided by DOJ examine the violent use of firearms in two contexts: domestic homicides and suicides. The Dansys Consultants study of domestic homicides is probably the most comprehensive and the most convincing in terms of supporting DOJ's position. This study examined all domestic homicides involving firearms that occurred in 1989 and 1990. Approximately one-half involved a husband killing a wife; 15 per cent a wife killing a husband; and the remainder involved other family members, for example, six per cent involved a son killing a parent.

The accused in these incidents shared a number of characteristics—"variables" to use their terminology.

- 50 per cent were under the influence of alcohol at the time of the incident;

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<sup>1</sup> In fairness, not all advocacy research favours limiting access to firearms. Some American studies have attempted to demonstrate, not always successfully, that the presence of a gun in a household increases safety.



- 49 per cent abused alcohol;
- 47 per cent had a criminal record;
- 39 per cent were on unemployment/social assistance;
- 25 per cent were recently unemployed;
- 24 per cent had bankruptcy/credit problems;
- 24 per cent abused drugs;
- 18 per cent were “involved in a love triangle”;
- 14 per cent were awaiting trial;
- 11 per cent were under mental health treatment;
- 11 per cent were under the influence of drugs;
- 6 per cent were on probation, parole or mandatory supervision; and
- 5 per cent had a serious physical ailment.

In the subset of domestic homicides that involved a husband killing a wife, the victim and the accused were actively negotiating a separation or divorce in one-half of the incidents and in 40 per cent of the cases there had been a recent separation of residence.

The authors of the Dansys study are careful to emphasize that the variables they have identified are not predictors, “Generally, these variables should be considered as correlates rather than predictors.”<sup>2</sup> They then go on to explain the difficulty of establishing causation: “The question of establishing causation for any criminal behaviour ... is a controversial and complicated one. Furthermore, our case study data are not complemented with the type of general population (or control group) data that would be necessary to even attempt to address the question of causation.” This is an important disclaimer because as noted above, DOJ appears to believe that stressful life events or risk factors targeted in the personal history questions **predict** violence.

One of the most important conclusions of the Dansys study is that in two-thirds of the homicides the victim and the accused had been involved in previous violent disputes that were known by acquaintances of the victim. (The proportion was even higher for homicides that involved a husband killing a wife.) This risk factor was identified in the Bailey et al, the Crawford et al, and the Campbell et al studies. The Tutty study, which examined non-lethal domestic violence incidents involving firearms, reaches a similar conclusion about the ongoing, repetitive nature of domestic violence.

Tutty also found that:

- Over half of the men had previously been charged with criminal offences, excluding assaults against the current partner;
- Over half of the women considered their partners to have serious substance abuse problems;

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<sup>2</sup> In its simplest form a correlation simply refers to a recognizable pattern between variables. A correlation does not prove cause and effect. Even when two variables appear correlated, there is not necessarily any causal relationship between them. For example, even if a study found a strong positive correlation between alcoholism and gun related homicide it would be wrong to conclude, without further analysis, that excessive alcohol consumption causes violent behaviour. It is possible that some other factor causes both the alcoholism and the violence. In the case of the Dansys study, it is possible that both the alcohol abuse and the violence are caused by financial problems or by the breakdown of the relationship, or even by some variable not identified in the study.

- About one-third of the men had been treated or received psychiatric attention; and
- Almost half of the men involved were described as drunk or high on drugs during the firearms episodes.

This study is based on qualitative information—interviews with the victims and service providers (shelter employees, social workers, and police officers with domestic abuse units).

Another common finding in the studies that examined domestic violence and homicide is the high percentage of the accused who had prior convictions. However, this risk factor is not addressed in the personal history questions that concern us.

### Suicides

Although homicides receive more attention, most deaths involving firearms are suicides. In 1997, suicides accounted for more than three-quarters of all firearm deaths; homicides accounted for 15 per cent; and accidents and other incidents accounted for the remainder.

Thus, it might appear that reducing the availability of firearms would obviously reduce suicides. However, the solution is not that simple. Despite the much greater availability of firearms in the United States, the suicide rate is lower in the U.S. than in Canada—11.5 per 100,000 people compared to 12.9 in Canada. Americans are more likely than Canadians to use firearms—60 per cent vs. approximately 25 per cent. (Dandurand)

Reducing the availability of firearms will only reduce the number of suicides *if* the individuals do not switch to other means. In the literature on suicide this is referred to as “displacement”. Based on his literature review, Dandurand cautiously concludes: “The individual and situational factors that may influence individual choices of a suicide method, are still not well understood. Controlling the availability of some means of committing suicide may affect existing behaviour patterns and perhaps even prevent some suicides.”

Four of the studies provided by DOJ deal with suicides. Only the Moyer and Carrington study specifically examines the role of firearms in suicides. Although they conclude that reducing the level of firearm ownership would reduce suicides, the study provides weak support for the personal history questions.

Moyer and Carrington collected information about eight “life events” in their analysis of a sample of Ontario suicides:

- Death of family member;
- Change in the size or composition of the household—divorce, separation, childbirth;
- Change of address;
- Work and income problems;
- Legal problems such as recent criminal charges;
- Physical illness;
- Other loss of relationship; and
- Other.

They conclude: “None of the cross-tabulations showed a statistically significant relationship to method. However, when the life events were counted it was apparent that victims with one or more stressful life events were more likely to use firearms than were persons who had no stressful events.”

The connection between these life events and the personal history questions is tenuous. For example, the personal history questions do not ask about the death of a family member, change of address or physical illness. They combine childbirth with divorce and work problems with income problems.

Their overall conclusion is worth quoting in full: “In summary, perhaps the most important findings from this analysis of the factors associated with suicide method are the clear, consistent relationship between community size (degree of urbanization) and the use of firearms for suicide; the association between alcohol impairment and firearms suicide; and the fact that persons not classified as seriously depressed use firearms in larger numbers than do victims suffering from ongoing or severe depressive illness.”

Only the second finding—the connection with alcohol impairment—provides any support for the personal history questions. The third finding, with respect to degree of depression, undercuts the rationale for one part of 19(d). They conclude that, among the suicides they examined, individuals who were severely depressed (21 per cent) were less likely than those with no depression (35 per cent) or minor depression (45 per cent) to use firearms. “Persons with no indication of treatment on file were especially likely to use a firearm.” In other words, the relationship between diagnosis or treatment for depression was exactly the opposite to that implied in the personal history questions.

Moyer and Carrington found a statistically significant relationship—not necessarily a cause and effect relationship—between blood alcohol level and firearms suicides. Suicides who were impaired were twice as likely (50 vs. 26 per cent) to use firearms compared to those who were not. Sigurdson, Peruzzi and Bailey all identify alcohol as a risk factor in suicides. Bailey notes that this is particularly true with young males. Sigurdson only looked at youth suicides, 84 per cent by males.

Moyer and Carrington did not collect information about previous attempts to commit suicide. Two of the other studies—Sigurdson and Peruzzi—found that many successful suicides had made previous attempts. However, Sigurdson found that those with no previous attempts were almost twice as likely to use a firearm as those with previous attempts. (Peruzzi did not examine means.) This finding weakens the rationale for the questions about previous attempted or threatened suicides in 19(d).

### Conclusions

Our overall conclusion is that the studies cited by DOJ provide limited support for questions 19(d) to (f). Contrary to what DOJ appears to believe, the studies do not identify risk factors that predict violence. The most the studies can claim to do is identify factors that are associated with firearm violence. The relationship between these factors and firearm violence may be causal, but the studies do not demonstrate causation.

The studies provided by DOJ relate to two issues: suicides and domestic homicides. None of the studies provide any support for the personal history questions on the grounds that they identify risk factors with respect to the use of firearms in connection with workplace violence, road rage violence, incidents in schools, or other situations where firearms may be misused.

In several cases the link between the risk factors identified by the research and the related personal history question is indirect—the personal history question targets a somewhat different risk factor than the one identified in the research. For example, according to the Sigurdson study, alcohol was present in half of Manitoba youth suicides where tests were done—90 of 180. (Note that this study examined all youth suicides in Manitoba not just those involving firearms.) The Dansys study indicates that the accused was under the influence of alcohol in half of the domestic homicides in the sample. However, question 19(d) asks about diagnosis or treatment for alcohol abuse.<sup>3</sup> In some cases, individuals undergoing treatment for alcohol abuse may, in fact, have stopped drinking or, at the very least, acknowledged that they have a problem and thus attempted to control their alcohol use.

Similarly, financial difficulty was present in a significant proportion of the domestic homicides involving a firearm. According to the Dansys study, 48 per cent of the accused met one or more “condition of financial difficulty”: unemployment insurance recipient, welfare recipient, recently unemployed, bankruptcy/credit problems. Question 19(f) asks about job loss or bankruptcy. Many people experience job loss without necessarily experiencing financial difficulties. On the other hand, many people have ongoing financial problems that are not caused by the loss of a job or bankruptcy. Asking about job loss or bankruptcy may be a poor proxy for identifying financial difficulties. None of the studies found that job loss or bankruptcy, in isolation, are associated with firearm violence.

As mentioned above, some of the studies arrive at conclusions contrary to those implied in the personal history questions.

- Sigurdson found that those with no previous suicide attempts were almost twice as likely to use a firearm as those with previous attempts.
- Moyer and Carrington found that suicides with no indication of treatment for depression on file were especially likely to use a firearm.
- Moyer and Carrington also found that employed suicides used firearms more than unemployed persons, students and persons on disability pensions (38 per cent vs. 24).
- Crawford et al found that while alcohol was present, for both offenders and victims, in approximately one-third of intimate femicides in Ontario, evidence of drug was “minimal”.

Thus, according to these studies, previous suicide attempts, treatment for depression, unemployment, and drug use are not risk factors with respect to firearm violence. Treatment for depression and previous suicide attempts may be associated with further suicide attempts, but not necessarily an attempt with a firearm.

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<sup>3</sup> One advantage of the questions about diagnosis or treatment for alcohol abuse is that they lend themselves to a yes/no answer. The question on the FAC application—“Do you consider that you have an alcohol or drug problem or have you been counselled for such?”—was more subjective.

The studies provide support for certain portions of the personal history questions:

- The studies that examine domestic homicides and domestic violence convincingly draw a connection between previous incidents of domestic violence and the misuse of firearms. For example, the Dansys study found that in two-thirds of the homicides the victim and the accused had been involved in previous violent disputes that were known by acquaintances of the victim.
- The Dansys study found that, in the case of husbands killing their wives, the victim and the accused were actively negotiating a separation or divorce in one-half of the incidents and in 40 per cent of the cases there had been a recent separation of residence. This suggests a link between recent divorce/separation and the misuse of firearms.
- The studies provide strong support for a connection between previous convictions and the misuse of firearms although our office has not questioned the appropriateness of question 19(a) concerning previous convictions or charges.

The personal history questions ask about a large number of matters. When broken down into their component parts, questions 19(d) to (f) ask 35 separate questions—see **Appendix K**. The studies provided by DOJ provide little or no support for asking many of these questions. The Dansys study concludes:

- “In general, these incidents [domestic homicides involving firearms] rarely occur:
  - when both the victim and the accused are female;
  - when neither the accused or the victim have criminal records or substance abuse problems [this would appear to include alcohol and drug abuse and not just substance abuse as in question 19(d)]; and
  - when there is no known history of violent disputes between the victim and the accused.”

This conclusion acknowledges that, in the absence of criminal records, substance abuse, and previous violence, domestic homicides rarely occur. This suggests that it should be possible to identify those applicants who pose a threat with respect to domestic violence without asking about job loss, emotional problems, depression, and the other matters raised in the three questions. This is particularly true since a positive answer to the questions about previous convictions or a CPIC hit is likely to trigger additional inquiries.

The Bailey et al study concludes that with respect to suicides, illicit drug use, alcohol problems, and prior arrests were not significant when other risk factors were taken into account. With respect to homicides of women in their homes, they conclude that alcohol and the mental health of the victim or other household members were not significant when other risk factors were taken into account. The Bailey study did not examine all of the risk factors identified in the personal history questions, thus the study does not conclude that bankruptcy is significant—it simply was not analyzed as a risk factor.

The personal history questions ask far more questions, and potentially collect far more information, than is supported by the research studies. Questions 19(d) to (f) are troubling from a privacy perspective because they apply to so many people. For example, during the five-year period 1994 to 1998, there were an average of 73,000 divorces a year. Since 19(f) asks about divorces during the previous two years and every divorce involves two people, almost 300,000 people could potentially respond yes to the question. In addition, 19(f) asks about separations

and the breakdown of a significant relationship. There were 75,000 consumer bankruptcies in 2000. Again, since the question asks about bankruptcies in the two previous years, 150,000 people could respond positively. Even acknowledging that people applying for a POL are a subset of the entire population, the overwhelming majority of people who respond yes to the questions about bankruptcy, job loss, divorce, separation, treatment for alcohol abuse, diagnosis of emotional problems and the other questions are not a threat to themselves or others.

The studies provided by DOJ provide support for some of the questions, particularly the questions in 19(d) about being reported to the police or social services for violence, threatened violence or attempted violence in the applicant's home and the questions in 19(f) about a divorce or separation.

#### How is the information used?

Perhaps the biggest challenge in terms of assessing the personal history questions is that we do not know how the information collected on the application forms is used. DOJ does not appear to have conducted any analyses about the value of the questions in the decision-making process. In his recent letter to DOJ raising his concerns about the intrusiveness of the questions, the Commissioner asked, "I would like to know what percentage of applicants have responded yes to one of the three questions and what percentage of those individuals were denied a licence?" We have been told that DOJ has not yet done this type of analysis.

According to the Treasury Board Manual, *Privacy and Data Protection*, an institution must have "parliamentary authority for the relevant program or activity, and a **demonstrable need** for each piece of personal information collected in order to carry out the program or activity." (emphasis added) If the decisions to refuse licences are being made on the basis of other information—CPIC, FIP, other information provided by the applicant and information produced as a result of secondary and tertiary screening prompted by these sources of information—then arguably the three questions are not needed. We have no way of knowing if any applicants are being refused solely on the basis of their answers to the three questions and any additional screening prompted by positive answers to these questions.

Looking at the information provided on the Canadian Firearms Centre web site ("Making a Difference") about a handful of cases where applicants were refused—"Keeping guns out of the wrong hands"—it would appear that these refusals hinged on previous offences, prior convictions, and other information that could be obtained from police databases.  
**(See Appendix D)**

#### **Findings and rationale**

Although the Firearms Program has the authority to collect personal information for the purposes of determining eligibility, the amount of information collected is excessive. Furthermore, the three personal history questions at issue are highly intrusive and the Program has not provided a "demonstrable need" for the questions.

## Basis of the position

- The Program collects considerably more information from questions 19(d) to (f) than is supported by the research studies we have been given. The collection of information is excessive based on the risk factors identified in the research studies provided by DOJ.
- DOJ has not been able to provide any analysis of how the Program uses the response to 19(d) to (f) in the decision making process.
- The information collected from the questions in 19(d) to (f) that does appear to be supported by the research—previous incidents of violence reported to the police and divorce/separation—can largely be captured by other means.
- Therefore, the questions do not meet the “demonstrable need” test.

Although the research suggests a link between divorce/separation and the possible misuse of firearms in domestic situations, those people applying for a Possession and Acquisition Licence (PAL) have to provide the names, addresses and telephone number(s) of current and former spouses or common-law partners. The form states that current and former spouses/partners will be contacted if they have not signed the form. Thus, for people applying for a PAL the question about divorce/separation is unnecessary.

We appreciate that individuals applying for a Possession-only Licence (POL) do not have to provide any information about current or former spouses/partners. With respect to these individuals, we believe that screening for prior convictions and past violence should be adequate.

With respect to 19(e) we agree that the research studies on the subject demonstrate a link between previous domestic violence and the possible misuse of firearms in domestic situations. However, incidents of domestic violence should be picked up when the applications are screened against police databases. (Since question 19(e) asks if these incidents of actual, threatened, or attempted violence have been reported to the police or social services.)

We also find 19(e) ambiguous since it asks the applicant if he or she **knows** if he or she has been reported to the police, etc. The question is ambiguous because someone who knows that he or she has not been reported might be tempted to respond yes, which is not the point of the question.

Furthermore, 19(e) asks about “other conflict ... elsewhere.” This is a very broad question that would require an individual to respond yes as a result of a variety of situations. The research studies do not provide support for such a broad question.

We have been told informally that Firearms Officers are not in a position to rely solely on computerised databases for the information necessary for them to carry out their legal duties. To support this claim, we have been told about systems problems—“there is a backlog on criminal entries at the national criminal record repository—sometimes up to two months”; “the CPIC system is often down”; “computer accessible data systems on prohibitions are not yet universally available or reliable”; and “there are known technical problems (some clients are missed) in terms of client matching”. The one non-systems rationale offered is that “Other organizations of the social safety net that have knowledge of Section 5 [of the **Firearms Act**]

may not have a reporting option or obligation.” This is presumably a reference to “social services”, referred to in 19(e).

Although we cannot comment on the merit of this claim, our initial response would be that database/systems problems are not a legitimate basis for asking all applicants highly intrusive questions and that the systems problems should be corrected. However, we recognize that since it may not be possible to correct these problems immediately there may be need to ask applicants whether or not they have been reported to the police or social services for violence in the home.

Nor are we recommending that questions 19(a) to (c) be removed even though they ask for information about previous convictions, prohibitions against possessing a firearm and peace bonds that should be available in police databases.

Recommendations:

1. Questions 19(d) and 19(f) should be eliminated.
2. Question 19(e) should be revised to eliminate the references to “other conflict” and “elsewhere”. As well, we recommend that the ambiguity mentioned above be eliminated by rephrasing the question.



## APPENDIX A – Summary of Recommendations for Parts I and II

### PART I

#### ACCESS & CORRECTION

1. All the existing Memoranda of Understanding (a.k.a. Service Agreements) relating to the Canadian Firearms Program should be reviewed in order to standardize the control and ownership clauses.
2. DOJ should follow through on its promise to negotiate information sharing agreements with the provinces and territories. These agreements should apply to both electronic and hardcopy records and should also apply to the Firearms Interest Police (FIP) database as well as all federal, provincial and municipal police information retrieval systems. This would ensure that the personal information collected for the Firearms Program is protected in accordance with the intent and spirit of the federal **Privacy Act** and the principles of fair information practices, and that the Act applies in cases where no parallel provincial and territorial privacy legislation exists. In the event of a conflict between the federal **Privacy Act** and the provincial privacy acts (e.g. no correction rights at the provincial level), the agreements could expressly state that the federal **Privacy Act** would prevail.
3. In the interim, until DOJ puts in place appropriate information sharing agreements, the DOJ Protocol should be revised to:
  - recognize the information holdings at the RCMP Canadian Firearms Registry (CFR);
  - differentiate between the 7 opt-out jurisdictions (federally-administered) that do fall within the federal **Privacy Act** and the 6 opt-in jurisdictions (provincially-administered) that do not, especially regarding secondary and tertiary screening records;
  - address how individuals residing in PEI can obtain access to their information given that there is no comparable privacy legislation for that “opt-in” province;
  - provide guidance to provincial and territorial CFOs as to whether or not tertiary field investigation files held by municipal police agencies should be gathered in response to access requests; and
  - it should address all the access and correction issues associated with the FIP records.
4. Mechanisms should be in place to ensure that individuals have easy access to FIP records and the ability to correct or at least place a notation to file relating to disputed FIP entries. As such, consistent policies and procedures across Canada should be established, which would go beyond simply referring clients back to the source agency to ensure that corrections and/or notations are made in both the automated system and the original records.
5. Consideration should be given to creating a single access and correction point at the federal level. Given that the Program is administered through a federal statute, the provinces are fully funded by the Government of Canada, and that overall accountability for the Program rests with DOJ, individuals should not have to go to as many as 4 to 5 different places to obtain access to their personal information. This should be negotiated as part of the information sharing agreements.
6. Before DOJ and the RCMP can finalize their personal information bank descriptions for InfoSource, they should resolve a number of issues associated with access and correction rights such as control of both hardcopy and automated records held in the various jurisdictions. Specifically:

- Any bank(s) in InfoSource should differentiate between DOJ holdings (i.e. CPS, CFC, CFOs in the opt-out provinces and territories), those of the RCMP (i.e. CFR and Verifiers' Network,), as well as those of the "opt-in" provinces.
- Any bank(s) for the Firearms Program should describe the use of CFRS, CFRO, CPIC, PIRS, etc. as well as the types of information collected for eligibility screening (e.g. criminal, medical, etc.) including the various sources such as references, guarantors, doctors, spouses, and employers.
- The RCMP's Operational Case Records bank (CMP PPU 005) should specify to what extent FOs have access to the records via PIRS – an issue addressed as part of this review.
- The Firearms Interest Police (FIP) database must be reflected in InfoSource.
- The personal information relating to the collection and use of information about the qualifications of verifiers should also be recognized in InfoSource.
- DOJ's bank description should clarify who has control over all training records – for both the opt-in and opt-out jurisdictions.
- The new PIBs should also establish what personal information is being collected by CCRA since January 1, 2001, and refer to another PIB if necessary.

## COLLECTION

7. PIRS terminals in CFO and FO offices should only be available for those jurisdictions that do not have parallel police information retrieval systems.
8. Access to the RCMP's Police Information Retrieval System (PIRS) should be tightened by restricting FOs to limited, specific and relevant information only. FOs should not be granted open and full access to PIRS.
9. Since the RCMP and agencies contributing to PIRS already screen Operational Case Files to identify entries relevant to section 5 of the **Firearms Act** for flags in FIP, FOs should request PIRS checks only following a related FIP hit. As such, all searches on PIRS should be conducted using Screen 20 only and with the case number and originating agency (ORI) code as a search tool.
10. FOs should be restricted from using Screen 22 (which allows searches by using only the name and date of birth). This screen is used for more general and wider searches by law enforcement agencies. FOs already have access to CPIC for this purpose.
11. Since it is technically possible to restrict access to PIRS to certain screens, FOs should be restricted from having access to information about associated subjects (e.g. witnesses and victims) linked to CFRS clients. In those rare cases where information about associated subjects is required, Firearms Officers should request this information directly and in writing from the RCMP.
12. All PIRS information used by a FO to make an administrative decision about an individual who has been positively identified as a CFRS client should be verified with the contributing agency—regardless of whether it is an approval, refusal or revocation process.
13. Verification should be made to ensure that the PIRS database is used only by authorized personnel with an enhanced security clearance, followed by a refresher course on the appropriate use and limitations of the system.
14. Retention and disposal policies should be instituted to extend retention periods of originating agency files as a result of any activity linked to FIP PIRS data.
15. Similar to the well-developed CPIC audit functions, the RCMP should establish and implement an automated PIRS audit function to ensure that complete, up-to-date and

accurate information is gathered on PIRS and to ensure the proper use and protection of PIRS data by FOs.

16. The existing Memoranda of Understanding with each province and territory specific to the use of PIRS data should be amended accordingly, and related national policies and procedures should be drafted.
17. Similar to the recommendations made with respect to PIRS, the same access restrictions should be applied relating to all provincial and municipal police information retrieval systems in Canada that are used to make decisions about individuals under the **Firearms Act**.
18. Likewise, any Memoranda of Understanding relating to the provincial and municipal police information retrieval systems should be amended accordingly, and the specific databases used by FOs should be covered in the MOUs.
19. Since DOJ's Canadian Firearms Centre is responsible for issues respecting data quality on Firearms Interest Police (FIP) and in conformity with section 6(2) of the **Privacy Act** (accurate, complete and up-to-date information), there should be an auditing framework to verify the validity and accuracy of FIP records.
20. The Canadian Firearms Centre FIP Project Team should continue to work towards establishing and implementing common police agency extract standards and procedures, and a copy of the report(s) of improvements should be provided to the Privacy Commissioner.
21. Policies and procedures should be implemented regarding the collection of personal information from credit reporting agencies, and a copy should be provided to the Privacy Commissioner.
22. In response to our Preliminary Report, in January 2001 DOJ agreed to undertake the following recommendations with respect to telephone monitoring practices at the Central Processing Site:
  - All employees (DOJ and HRDC) should receive the same written notification that their conversations may be monitored for quality checks and performance appraisal purposes.
  - The system should generate an automatic message to CFRS clients to inform them that their conversations may be monitored. Clients should have an opt-out and be transferred to a "clean" line should privacy concerns be raised.
  - Specific procedures and policies should be in place to establish if and when recordings will ever be retained. For example, if a manager refers to a monitored call as supporting information in a performance appraisal or a disciplinary note, then there would be a requirement to record and keep that conversation. Also, the policies and procedures should mention any other situations that may warrant recordings, such as monitoring abusive callers that end up becoming law enforcement matters.
23. With respect to personal information obtained from spouses, there should be consistent national policies and procedures addressing both the collection of information from spouses as well as the disclosure of information about them.

## DISCLOSURE

24. Policies and procedures should be instituted at a national level to ensure that best practices are in place in all 13 provinces and territories with respect to the disclosure to employers to ensure that their employees' privacy is respected in situations of refusal or revocation of firearms licences.
25. With respect to disclosures to local police agencies:

- The Memoranda of Understanding between the Federal Chief Firearms Officer Services in the Northwest Region and their local police agencies should be amended to reflect that disclosures to local police officers who are not FOs should be for law enforcement purposes only, and a copy of the revised MOUs should be provided to the Privacy Commissioner.
  - The Memoranda of Understanding in all other provinces should be reviewed and amended accordingly, and a copy of these revised MOUs should also be provided to the Privacy Commissioner.
26. With respect to disclosures to the public through appeals, an administrative process should be created to review decisions and all supporting information in private. The court process could be retained as a final level of appeal.

## PROTECTION & SECURITY

27. Justice has so far provided **Privacy Act** awareness sessions to CPS staff only. Though employees at CFO sites appear to be aware of their obligations with respect to the protection of personal information in their custody, such training should be instituted program wide and to all employees on a regular basis. This should go beyond the privacy training provided with respect to the use of RCMP databases such as CPIC and PIRS.
28. A security audit framework should be developed for the CFRS, while audits of the CFRO and FIP should be covered by way of the CPIC audit cycles. These audits should be instituted as soon as possible.
29. Policies and procedures should be implemented relating to the transmission of personal information by fax.
30. Policies and procedures should be implemented to ensure that the necessary security measures are in place with respect to the handling of personal information by volunteer verifiers.
31. All volunteer verifiers should receive privacy training.

## RETENTION & DISPOSAL

32. DOJ should implement as soon as possible, and report to the Office of the Privacy Commissioner, the specific policies, procedures and practices to meet the prescribed retention and disposal requirements of the **Firearms Act** and **Regulations** as well as the **Privacy Act** and **Regulations**.

## PART II

### QUESTIONS ON THE FIREARMS LICENCE APPLICATION FORM

33. With respect to the personal history questions on the firearms licence application form, questions 19(d) and 19(f) should be eliminated.
34. Also, question 19(e) should be revised to eliminate the references to “other conflict” and “elsewhere”. As well, the ambiguity relating to “if he or she knows if he or she has been reported to the police” should be eliminated by rephrasing the question.

## **APPENDIX B – Complaints under the *Privacy Act***

Up to and including May 4, 2001, 29 complaints have been received by the Privacy Commissioner's office relating to the Canadian Firearms Program. Out of 21 complaints against the Department of Justice, 8 were deemed not well-founded, 8 were settled during the course of the investigations, and 5 are ongoing investigations. Out of 8 complaints against the RCMP, 5 were deemed not well-founded and 3 were settled during the course of our investigations.

### *Collection – Intrusiveness of Questions*

In addition to the numerous inquiries OPC continues to receive, at least eight (8) formal complaints have been received regarding the intrusive nature of the questions on the firearms licence application forms. The questions that raise the most concern relate to emotional problems, depression, threatened or attempted suicide, alcohol, drug or substance abuse, marital breakdown, personal relationships, job loss, bankruptcy, etc. (Refers to questions 19(d) to (f) on the latest Application for a Licence.)

Following our first complaint in 1995, OPC examined the questions on the old Firearms Acquisition Certificate application form and found that the collection of this sensitive personal information did not violate section 4 of the ***Privacy Act***. (RCMP Closed as *not well-founded* March/97)

Similarly, following the enactment of the ***Firearms Act*** in October 1998, our review of almost identical questions on the new licence application forms following receipt of three separate complaints found that Program officials had the legislative authority for the collection. (DOJ Closed as *not well-founded* Feb/00)

Four more recent complaints against DOJ are still open pending our re-assessment of the questions on the firearms licence application form.

### *Collection – Others*

The Social Insurance Number was listed as possible identification on licence application forms contrary to the Treasury Board's Policy on limiting the use of the SIN. As the Firearms Program has no authority to use the SIN, it was removed from the application forms during the course of our review. (DOJ Closed as *settled* March/00)

The collection of information regarding income in order to waive the application fee for those who are sustenance hunters. (DOJ Closed as *settled* March/01)

### *Use & Disclosure*

Authorized disclosure of information to Territorial Firearms Officers. (RCMP Closed as *not well-founded* Nov/96)

Authorized disclosure of information to local Firearms Officers. (RCMP Closed as *not well-founded* Mar/97)

RCMP's practice of making restricted firearms information available through CPIC is an authorized disclosure. (RCMP Closed as *not well-founded* Mar/97)

#### *Use & Disclosure - Processing/Administrative Errors*

Three (3) complaints against DOJ about envelopes revealing contents due to return address and that the envelopes were transparent. (Two were closed as *not well-founded* while one was closed as *settled* – Spring & Summer 1999)

Information packages that were sent to two applicants by the Canada Communications Group were inadvertently switched. (DOJ Closed as *settled* June/99)

Photos of two applicants were inadvertently switched by a police department while in the initial application processing stage. The licences contained the correct physical information for each individual but the wrong photo. (DOJ Closed as *settled* Feb/00)

Mix-up of address due to similar names; therefore licence was sent to the wrong person. (DOJ Closed as *settled* Dec/99)

Inadvertent disclosure to another individual about a **Privacy Act** request. (DOJ Closed as *settled* Sep/00)

Registration Certificate mailed to old address even though DOJ had the complainant's current address. (DOJ Closed as *not well-founded* Nov/00)

Someone else's photo on a Firearms Licence (DOJ *Ongoing investigation*)

#### *Denial of Access*

Denied access to Firearms Application Certification investigation records held by RCMP acting as provincial police force. (RCMP Closed as *not well-founded* Jan/96)

Denial of access to information supporting why, on two separate occasions, the applicant was temporarily denied approval to purchase firearms. Other than "New events against the buyer", FIP system lacks necessary details. Case of mistaken identity due to phonetically oriented computer. FIP system flagged wrong person with similar name and DOB. (DOJ Closed as *settled* Oct/99)

Denied access to list of restricted firearms registered unless fingerprints were provided. (RCMP Closed as *settled* Aug/00)

*Miscellaneous*

Collection and Use & Disclosure – Mailing lists not being created and sold by the Canada Communications Group. (DOJ Closed as *not well founded* June/99)

Time Limit and Retention & Disposal – In addition to a time limit issue, an individual complained that he received a copy of his personal information related to the Firearms Interest Police (FIP) database and that the FIP entry should never have been placed on the system by the Montreal Urban Community Police. He believed that—as custodian of the CPIC system—the RCMP had the power to remove his FIP entry and that it should do so. The complainant later agreed that the information was entered by the MUC as a result of an investigation it conducted and that only the MUC could remove the information. (RCMP Closed as *settled* Nov/99)

## **APPENDIX C – Standard Compliance Review Objectives and Criteria**

### *Collection*

- The institution should collect only the personal information that is directly required for the administration of an operating program or activity.
- Subject to exceptions listed in the **Privacy Act**, the institution should collect personal information directly from the individual concerned.
- Except in circumstances described in subsection 5(3) of the **Privacy Act**, the institution should inform any individual from whom it collects personal information about the purpose of the collection.

### *Use of Personal Information*

- The institution should use personal information only for the purpose for which it was collected.
- While the institution may use personal information for a use consistent with the purpose for which it was collected, that use:
  - should have a reasonable and direct connection to the original purpose;
  - should be listed in Info Source; and
  - should be communicated to the Privacy Commissioner if not listed in Info Source.
- The institution should take all reasonable steps to ensure that personal information that it uses is as accurate, up-to-date and complete as possible.

### *Disclosure*

- Personal information collected for use in an operating program or activity of the institution shall only be used for that purpose, except where permitted under subsection 8(2) of the **Privacy Act**, or with the consent of the individual concerned.
- Any disclosures made by the institution in the areas listed below, without obtaining the consent of the individual, should be made only in accordance with established policies and procedures and in accordance with one of the following provisions:
  - in accordance with an Act of Parliament or regulations made thereunder that authorizes its disclosure;
  - to comply with subpoenas, warrants or court orders;
  - to an investigative body listed in the Privacy Act;
  - under an agreement or arrangement between an institution of a province or of a foreign state and international body for the purpose of administering or enforcing any law or carrying out a lawful investigation;
  - to Members of Parliament;
  - for audit purposes;



- for research and statistical purposes;
- for native claims research;
- for the purpose of locating an individual relative to the collection of a Crown debt or the payment of a government benefit; or
- where the public interest outweighs any invasion of privacy.

#### *Protection of Personal Information*

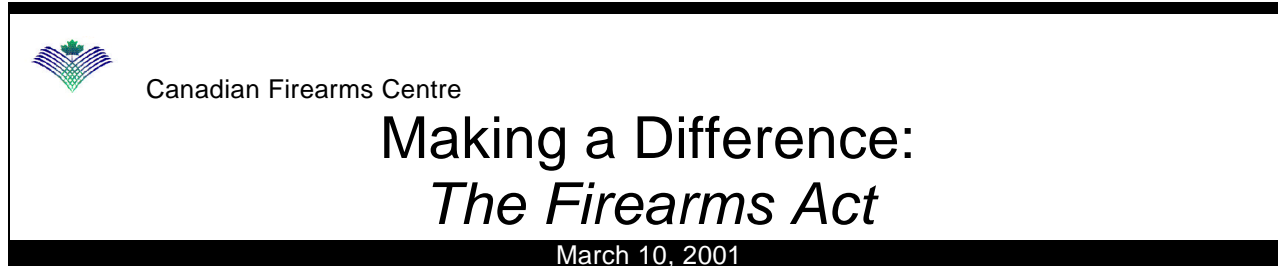
- The institution should provide adequate physical security measures to protect personal information against unauthorized disclosure.
- The institution should have adequate security measures to protect personal information in EDP systems against unauthorized disclosure.
- The institution should provide adequate protection against unauthorized disclosure when personal information is transmitted from one location to another.

#### *Retention and Disposal*

- All personal information holdings should be covered by retention and disposal schedules developed in conjunction with and approved by the National Archives.
- In accordance with regulations, personal information should be retained for a minimum of 2 years following the date of last administrative use unless disposal has been authorized by the individual(s) concerned.
- Hardcopy records should be properly disposed of in a manner consistent with their security classification.
- EDP records should be properly disposed of in a manner consistent with their security classification.

## APPENDIX D – Summary of Key Statistics – Firearms Program

(Excerpt from the Canadian Firearms Centre web site.)



The *Firearms Act* has many goals. Although the program is still in its implementation stage, these objectives are already being met. Each objective fulfilled is another significant step towards making Canada safer. The program began on December 1, 1998.

### ***Prevention = Public safety***

Across Canada, over 3,000 firearms licences have been refused or revoked since the new law came into effect December 1, 1998. This is over 26 times more revocations from potentially dangerous individuals than the total for the last five years of the previous system.

Thanks to continuous background checks, 1,440 new applications have been refused and we have revoked 1,570 licences from individuals who were no longer eligible.

Since Dec.1, 1998, approximately 19 per cent (90,400) of gun sales processed through the call centre were identified as having potential problems and were sent for more in-depth investigation. To date, over 440 gun sales have been refused.

Since Dec.1, 1998, the new spousal notification line has received over 22,000 calls. This has proven to be an excellent tool for an applicant's spouse (or others) to share concerns about public safety.

Police now have an online registry of owners and their firearms. Extensive background checks are conducted on every person (473,000 to date) who acquires a firearm.

**Summary of key statistics**

<b>Licences*</b>		
<b>Valid Licences</b>		<b>1,590,000</b>
	Before Firearms Act	201,000
	After Firearms Act	700,000
	Valid temporary licences	689,000
<b>Processing</b>		<b>408,000</b>
	To be processed	800
	In process	331,800
	Under administrative review	75,400
<b>Refused</b>		<b>3,720</b>
	FAC refused before Firearms Act	2,280
	Refused after the Firearms Act	1,440
<b>Revoked</b>		<b>1,630</b>
	FAC revoked before Firearms Act	60
	Revoked after Firearms Act	1,570
<b>Participation to date</b>		<b>2,000,000</b>
<b>*After Firearms Act= since Dec.1/98</b>		
Before Firearms Act= 5 years previous		
<b>Firearms</b>		
<b>Number of restricted Weapons</b>		<b>1,150,000</b>
Source: RCMP 1999 Annual Report		
<b>Number of New Firearms Registered</b>		<b>650,000</b>
<b>Firearms in the system</b>		<b>1,800,000</b>
<b>Registration Applications in process</b>		<b>216,000</b>
<b>Firearms Known to Police</b>		<b>2,016,000</b>

**Keeping guns out of the wrong hands**

The success of the registration and licensing system is not just about numbers. There are good examples of the difference the *Firearms Act* is making by enhancing public safety and combating crime. For example:

- In May 2000, the firearm registry played a pivotal role in uncovering what is believed to be one of the largest and most sophisticated firearm smuggling rings in North America. Nearly 23,000 firearms and their components were seized.
- In February 2000, in Alberta, a hearing was held for an individual who had been refused a possession and acquisition licence. The licence was refused due to a psychiatrist's opinion that the applicant should not have firearms. In addition, there were a number of discrepancies in the individual's application form and a history of criminal convictions. The Area Firearms Officer's decision to refuse the licence was upheld by the judge.
- In January 2000, police obtained a gun that had been stolen from a residence in Newfoundland 15 years ago. They managed to locate the gun in Quebec during a transfer of ownership through the registry and returned it to the original owner.
- In January 2000, in Newfoundland, the Chief Firearms Officer was alerted to a series of classified advertisements selling firearms in a newspaper. Following a police investigation, an individual was charged with transferring firearms without authority. The individual pleaded guilty and was fined.
- In early 2000, an individual in B.C. had his licence revoked because of a history of sexual assault offences. The individual decided to appeal the decision in court, but the judge confirmed the decision of the firearms officer to revoke the licence.
- Again early in 2000, an individual in B.C. had his licence revoked for repetitive drinking and driving offences. Again, the revocation was appealed and the judge upheld the decision that the individual should no longer hold a licence because of irresponsible behaviour.
- In August 1999, an Alberta judge upheld the decision of a firearms officer to refuse a licence to an applicant awaiting trial on drug charges on the basis of public safety concerns.
- In August 1999, in Nova Scotia, a woman called the spousal line with a concern that her estranged husband was applying for a licence and was going to indicate that he did not have a spouse because she had refused to sign his application. She was quite concerned for her safety and the safety of their children. She later filed a complaint with her local police agency in order to generate a reference on the new Firearms Interest to Police (FIP) database (a reference log which indicates that an individual has recently been involved in a violent incident, has a history of mental illness or other information relevant to a firearms licence application). This means that if he tries to obtain a licence in the future, it will automatically trigger an investigation.
- In April, 1999, in Quebec, the FIP database matched several cases of domestic abuse to "valid licence holders". Their licences were revoked.
- In February 1999, in Nelson, BC, an individual with a valid Firearms Acquisition Certificate (FAC-- precursor to the new licence) attempted to purchase several firearms over a two-week period. The background check indicated numerous prior convictions and several

recent incidents involving criminal and violent activities. His licence was suspended pending further investigation. The sales were refused. The individual later attempted two more times to purchase firearms until his licence was revoked and his firearms seized.

- In January 1999, in Red Deer, Alta., an armoured car company employee had been falsifying his gun licence and permit to carry a handgun for the past three years and had gone undetected until the new registry caught this anomaly. Officials reported the incident and an investigation was launched.

### ***The Act at a glance***

The *Firearms Act* marks improved public safety relating to firearms and a more efficient way to combat crime. The key feature is a registry of firearms and their owners. All firearm owners must:

1. Have applied for a licence by Dec.31, 2000 (a licence is valid for five years);
2. Register all firearms by Dec.31, 2002;
3. Remember to safely store all firearms.

The *Firearms Act* and regulations apply to any person (including visitors to Canada) and any business that possesses firearms.

Before a licence is issued, safety checks on applicants are done.

Applicants who wish to acquire firearms must pass the Canadian Firearms Safety Course Test. There are now two firearms safety courses available to applicants.

To register a firearm, the applicant must first have a licence (or FAC that is still valid). Any acquisition of a firearm after December 1, 1998 is considered a transfer. Transfer fees are waived from June 10, 2000 to June 30, 2001. As of July 1, 2001, a \$25 transfer processing fee will apply.

A firearm is registered only once. Registration certificates will remain valid, unless the firearm is modified to change its class, or it is sold.

Safe storage regulations require that all firearms be stored unloaded and locked.

Visitors bringing firearms into Canada will have to declare their firearms in writing beginning January 1, 2001. The declaration will be confirmed by a customs officer. The confirmed declaration will serve as a temporary licence and registration certificate for up to 60 days.

Previously registered restricted firearms, such as handguns, and prohibited firearms, such as fully automatic firearms, must be re-registered. There is NO FEE for this re-registration. An amnesty is in effect until June 30, 2001, to allow individuals in possession of unregistered restricted firearms to either register or turn in these firearms.

Handguns with a short barrel (105 mm or less) or those that discharge 25 or 32 calibre ammunition have been prohibited.

## ***Improving safety***

Statistics Canada reports that, between 1970 and 1996, about 37 000 people died from firearm wounds in Canada. The new law aims to keep firearms out of the hands of people who threaten their own safety and the safety of others. The *Firearms Act* has already proven it can do just that.

Under the new law, authorities conduct extensive **background checks** on every single applicant before a licence is issued and before a firearm is transferred to a new owner. Reviews of each individual's eligibility are continuously conducted thanks to the linking of police networks to the new registration system, and the creation of FIP, the new police database for violent incidents. These checks help to keep firearms out of the hands of persons who should not have them.

Primary reasons for refusals include:

- The buyer does not have an acquisition licence;
- The individual is attempting to purchase prohibited firearms for which he or she is not licensed to possess;
- Failure to comply with handgun requirements, such as demonstrating a valid purpose to collect firearms or membership in a gun club;
- Public safety reasons. Some of these result from investigations prompted by FIP. As soon as a new violent incident is logged into FIP, the system searches licence holders in the registry database for a match and alerts authorities of this new development.

Sections 5 and 70 of the *Firearms Act* respond to public safety concerns in a **more comprehensive and clear** way than did previous legislation. They allow for the refusal or revocation of licences for public safety purposes and are very **important to law enforcement officials** when they evaluate a potential threat to public safety and the removal of firearms. For example, the new program supplies police with more information to help them decide what guns need to be removed from a domestic violence site. Police officers can access registry information from their cruiser through a computer terminal or from their communications centre. The Canadian Firearms Registry On-Line (CFRO), as this system is known, receives an average of 2 000 queries per day.

The new system also provides an outlet for people to express their concern when they feel someone, particularly their **spouse**, should not possess a firearm. When a person applies for a firearms possession and acquisition licence, they are required to have their present and past spouse or common-law partner sign the application verifying that they are aware of the application to acquire a firearm. If for any reason the spouse chooses not to sign the application, it will spark further investigation by a law enforcement officer.

The applicant's spouse can also use the special spousal line, accessed through our toll free information line (1-800-731-4000), to express concern. Since Dec.1, 1998, there have been well over 22,000 calls made to the line to report crime or provide warning about a person, and women's organizations are expressing gratitude for making this avenue available to women.

The registry also contributes to **firearms crime investigation**. Studies show that half of all the handguns and other restricted firearms recovered at crime scenes are registered and can be traced back to their original owner. With the registration of rifles and shotguns it will be much easier to trace these firearms and help stop the flow of long guns to criminals. This is extremely important since long guns are associated with many firearm-related crimes in Canada. Without the registration of long guns, people could buy them legally and supply a black market without fear of being held accountable.

*Criminal Code* amendments on January 1, 1996 created four-year **minimum sentences** for violent crimes committed using a firearm, such as attempted murder, manslaughter, robbery, sexual assault with a weapon and kidnapping. Also, under section 85 of the *Code*, anyone convicted of using a firearm in the commission of other indictable offences continues to be subject to a minimum 1-year prison sentence on a first offence. This term is to be served consecutively with any penalty for the other offences.

## **APPENDIX E – Highlights of Firearms Act and its Regulations**

### ***Firearms Act***

Section 5 – public safety and the general rules for eligibility to hold licences (see attached sheet).

Section 55(1) – a Chief Firearms Officer is entitled to consider any information that can reasonably be regarded as relevant for the purpose of determining eligibility.

Section 55(2) – a Chief Firearms Officer may also conduct an investigation of an applicant for a licence and may contact any source of information whom the officer is of the opinion may provide information pertinent to whether the applicant is eligible to hold a licence. At a minimum, while determining eligibility, a Chief Firearms Officer is required to have regard to certain information from within the previous five years.

Sections 82 to 119 – the creation of the Canadian Firearms Registration System (CFRS) under the control of a Registrar of Firearms, appointed by the Commissioner of the RCMP.

Subsection 83(1) – establishment of the Registry which shall keep specific types of records

Section 84 – permitting the Registrar to destroy Registry records “at such times and in such circumstances as may be prescribed” (see Regulations)

Subsection 85(1) – other records to be kept by the Registrar, such as a record of all firearms acquired or possessed by individuals who in the normal course of their duties use firearms (i.e. peace officers)

Subsection 85(3) – permitting the Registrar to destroy 85(1) records “at such times and in such circumstances as may be prescribed” (see Regulations)

Subsection 87(1) – records to be kept by the Chief Firearms Officers

Subsection 87(2) – the Chief Firearms Officer may destroy records (see Regulations)

Section 90 – the Registrar and the Chief Firearms Officers have a right of access to each other’s records as kept under section 83, 85 and 87

Paragraph 95(a) – the federal minister may enter into agreements with the provinces “providing for payment of compensation by Canada to the provinces in respect of administrative costs actually incurred by the provinces in relation to processing licences, registration certificates and authorizations and applications for licences, registration certificates and authorizations and the operation of the Canadian Firearms Registration System”

Section 99 – delegation from Chief Firearms Officers to firearms officers.

Sections 101-105 – a firearms officer also holds the designation of inspector.



Section 117 – the Governor in Council may make regulations ... (m) and (n) regulating the keeping and destruction of records and (s) respecting the operation of the Registry

### ***Firearms Records Regulations***

Section 2 – the types of records to be kept in the Registry

Section 3 – the types of records to be kept by Chief Firearms Officers

Subsection 4(1) – for the purpose of section 84 of the Act, Registry records shall not be destroyed until the expiration of 10 years after the date of the last administrative action

Subsection 4(2) – paragraph 83(1)(a) Act records shall not be destroyed

Section 5 – 87(2) records kept by a Chief Firearms Officer shall not be destroyed until the expiration of 10 years after the date of the last administrative action

Subsection 6(1) – despite section 5, records re: section 7 and 7(4)(a) of the Act shall not be destroyed until the death of the individual (successful completion of safety courses)

Subsection 6(2) – despite sections 4 & 5, records kept under 87(1)(c) of the Act and 147.1 of the *National Defence Act* shall not be destroyed until after the death of the individual (prohibition orders)

Section 7 – the Registrar and the Chief Firearms Officers can amend their own records and, if amendments are made, they shall inform each other

Subsection 7(5) – an individual who wants personal information that is contained in a record about himself or herself to be amended shall submit an application in writing to the Registrar (in the case of a record held there) or the Chief Firearms Officer in the province in which the record was created

## AUTHORIZED POSSESSION

### Eligibility to Hold Licences

#### General Rules

Public safety

5. (1) A person is not eligible to hold a licence if it is desirable, in the interests of the safety of that or any other person, that the person not possess a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition or prohibited ammunition.

Criteria

(2) In determining whether a person is eligible to hold a licence under subsection (1), a chief firearms officer or, on a reference under section 74, a provincial court judge shall have regard to whether the person, within the previous five years,

(a) has been convicted or discharged under section 736 of the *Criminal Code* of

(i) an offence in the commission of which violence against another person was used, threatened or attempted,

(ii) an offence under this Act or Part III of the *Criminal Code*,

(iii) an offence under section 264 of the *Criminal Code* (criminal harassment), or

(iv) subsection 39(1) or (2) or 48(1) or (2) of the *Food and Drugs Act* or subsection 4(1) or (2) or 5(1) of the *Narcotic Control Act*;

(b) has been treated for a mental illness, whether in a hospital, mental institute, psychiatric clinic or otherwise and whether or not the person was confined to such a hospital, institute or clinic, that was associated with violence or threatened or attempted violence on the part of the person against any person; or

(c) has a history of behaviour that includes violence or threatened or attempted violence on the part of the person against any person.

Exception

(3) Notwithstanding subsection (2), in determining whether a non-resident who is eighteen years old or older and by or on behalf of whom an application is made for a sixty-day licence authorizing the non-resident to possess firearms that are neither prohibited firearms nor restricted firearms is eligible to hold a licence under subsection (1), a chief firearms officer or, on a reference under section 74, a provincial court judge may but need not have regard to the criteria described in subsection (2).

## APPENDIX F – Privacy and Access Legislation in Provinces & Territories

### “Opt-in” Provinces – Firearms Program provincially-administered

**Prince Edward Island** – In December 2000, the PEI Legislative Assembly gave 1<sup>st</sup> reading to that province’s *Freedom of Information and Protection of Privacy Act* (Bill 19). However, there is no privacy legislation yet in PEI as the Bill is still pending.

**Nova Scotia** – The *Freedom of Information and Protection of Privacy Act* (1993) applies to information held by the provincial government and regulates the collection, confidentiality, access and correction, disclosure, retention and use of personal information.

**New Brunswick** – The 1998 *Protection of Personal Information Act* came into force on April 1, 2001. This Act amends the 1978 provincial *Right to Information Act* by giving individuals a right of access to their personal information held by the provincial public sector. As well, the *PoPIA* regulates the collection, confidentiality, correction, disclosure, retention and use of such personal information. The *PoPIA* also applies to publicly funded organisations such as hospitals, universities, and laboratories. Health care providers, however, even those offering publicly funded health care, are not covered.

**Québec** – The *Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information* (1982) applies to the information holdings of the provincial, regional, municipal and local governments. The *Act Respecting the Protection of Personal Information in the Private Sector* (1994) applies to personal information held by private sector businesses operating in Québec. In addition to granting rights of access, both Acts regulate the collection, confidentiality, correction, disclosure, retention and use of personal information. Also, the *Québec Civil Code* (1994) grants all Québec residents civil protection against violations of their informational, territorial and personal privacy, and the *Québec Charter of Rights and Freedoms* (1975) enshrines a right to privacy for provincial residents.

**Ontario** – The *Freedom of Information and Protection of Privacy Act* (1988) applies to information held by the provincial government and regulates the collection, confidentiality, access and correction, disclosure, retention and use of personal information. The *Municipal Freedom of Information and Protection of Privacy Act* (1991) applies in a similar fashion to local, municipal and regional governments. The province has also recently drafted a proposed *Ontario Privacy Act* to cover the private sector.

**British Columbia** – The *Freedom of Information and Protection of Privacy Act* (1993) applies to information held by the provincial government and regulates the collection, confidentiality, access and correction, disclosure, retention and use of personal information. Since 1994, the Act also applies to local, municipal, and regional governments, and, as of 1995, to self-governing professional bodies. In addition, the province’s *Privacy Act* (1968) grants BC residents civil protection against violations of their territorial and personal privacy. Lastly, BC released a discussion paper on private sector data protection in October 1999, and an all-party legislative committee will hold public consultations.

## **“Opt-out” Provinces and territories – Firearms Program federally-administered**

**Newfoundland** – The *Freedom of Information Act* (1982) grants individuals a right of access to information held by the provincial government and regulates the confidentiality of personal information. The *Privacy Act* (1981) grants Newfoundland residents civil protection against violations of their territorial and personal privacy.

**Manitoba** – The *Freedom of Information and Protection of Privacy Act* (1998) applies to information held by the provincial government and regulates the collection, confidentiality, access and correction, disclosure, retention and use of personal information. Since April 2000, the Act also applies to local, municipal and regional governments. Also, the *Privacy Act* (re-enacted 1987) grants residents civil protection against violations of their territorial and personal privacy.

**Saskatchewan** – The *Freedom of Information and Protection of Privacy Act* (1991) applies to information held by the provincial government and regulates the collection, confidentiality, access and correction, disclosure, and use of personal information. The *Local Freedom of Information and Protection of Privacy Act* (1993) applies in a similar fashion to the local, municipal and regional governments. Also, the *Privacy Act* (1979) grants Saskatchewan residents civil protection against violations of their territorial and personal privacy.

**Alberta** – The *Freedom of Information and Protection of Privacy Act* (1995) applies to information held by the provincial government and regulates the collection, confidentiality, access and correction, disclosure, retention and use of personal information. In 1998, the Act was extended to school boards and health care bodies and, in 1999, the Act was extended to universities and colleges, municipal governments as well as police commissions.

**Northwest Territories** – The *Access to Information and Protection of Privacy Act* (1997) applies to information held by the territorial government and regulates the collection, confidentiality, access and correction, disclosure, retention and use of personal information.

**Yukon** – The *Access to Information and Protection of Privacy Act* (1996) applies to information held by the territorial government and regulates the collection, confidentiality, access and correction, disclosure, retention and use of personal information.

**Nunavut** – The *Access to Information and Protection of Privacy Act* (1999) applies to information held by the territorial government and regulates the collection, confidentiality, access and correction, disclosure, retention and use of personal information.

## **APPENDIX G – Memoranda of Understanding (Service Agreements)**

Clause 6.0 of the **1996 MOU between DOJ and the RCMP/CCRA**, which is the only clause expressly dealing with informational privacy, provides that the DOJ and the RCMP/CCRA will “*preserve the confidentiality of information and will disclose that information only to the extent that [either party] considers necessary for responding to legal obligations stemming from departmental legislature, the Privacy Act and the Access to Information Act.*”

Clause 12.0 of the **2000 MOU between DOJ and the RCMP**, which augments the principles and obligations, echoes clause 6.0 of the 1996 agreement with the acknowledgement that “*client information provided to RCMP employees...is the property of and under the control of DOJ*”.

Clause 13.0 of the **1998 MOU between DOJ and HRDC** stipulates that “*the parties recognise that client information provided to HRDC is the property of and under the control of DOJ*”. Clause 13.0 states that any requests for access to CPS information will be referred to the CPS management team who will direct the request to the “appropriate authority”. Schedule “F” of the agreement, to which clause 13.0 of the same refers, provides that HRDC employees shall return all personal information and any copy thereof at any time, at the request of DOJ.

Clause 33 of the **MOUs between DOJ and the Governments of British Columbia/Ontario** provides that “*in accordance with any law of the Parliament of Canada, relating to public access to information in the control of a government institution, the confidentiality of any information obtained by the Minister of Justice under this agreement will be respected to the extent requested by the Attorney General*” of BC/ON.

Note: This is a most peculiar provision. On the face of it, it seems to suggest the provincial Attorneys General can determine the extent to which a federal law will be respected. Clause 34 of the agreements provides the inverse of clause 33, allowing the DOJ to determine the extent to which provincial laws will be respected.

Though Local/Area Firearms Officers working for municipal police agencies are under service contract for the “opt-in” provinces implying that the records are the responsibility of the CFO, the **MOU between the Ontario Ministry of the Solicitor General (OPP/CFO) and the Ontario Police Services Board**, for example, specifically states that the investigative reports generated by the local police, and any other documents not forwarded to the CFO, shall remain under the custody and control of the local police for all requirements under the municipal freedom of information and protection of privacy legislation.

The **MOU between the Federal Chief Firearms Officer Services in the Northwest Region (MAN, SASK, ALTA, NWT & Nunavut) and their local police agencies** encourage “*full disclosure to each other of all relevant information*” and that the “*CFO agrees to provide information to the police on the result of any information into the eligibility of a person to possess a firearms licence*”.

## **APPENDIX H – Outstanding Issues**

The following privacy issues were raised either during the course of our Review or subsequent to it, and they remain outstanding:

### **Personal information handling practices by the CCRA**

Since January 1, 2001, the Canada Customs and Revenue Agency (CCRA) is involved in the customs declarations component of the *Firearms Act*. However, at the time of our review, this part of the Act was not yet in force and, as such, our review did not cover CCRA's personal information handling practices of this new activity related to the movement of firearms. It is also noted that the effective date for imports and exports of firearms will be 2003.

### **Outsourcing**

In February 2001, the Privacy Commissioner began looking at the privacy implications of the Program's outsourcing plans.

Also, our review of outsourcing issues includes a review of the Program's contractual arrangements with private investigators conducting tertiary screening investigations.

Also, we are looking at the existing contractual agreement with BDP Inc., a company in Ottawa that is providing Data and Image Capture Services as part of an Outsourced Processing Centre.

### **International information sharing agreements**

Our Office is also reviewing the Program's information sharing arrangement with the United States Bureau of Alcohol, Tobacco and Firearms (BATF), as well as any other existing international agreement relating to the Program.

**APPENDIX I – Firearms Licence Application Form**

**See attached copy of the  
"Application for a Licence under the Firearms Act"**

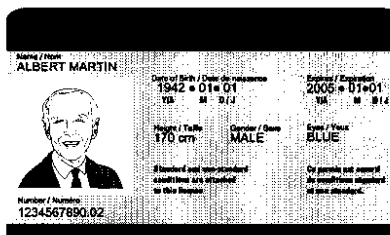
# APPLICATION FOR A LICENCE UNDER THE FIREARMS ACT

(for Individuals aged 18 and over)

**ATTENTION:** to POSSESS, ACQUIRE or BORROW firearms, or to acquire ammunition, you need to obtain a firearms licence before January 1, 2001.

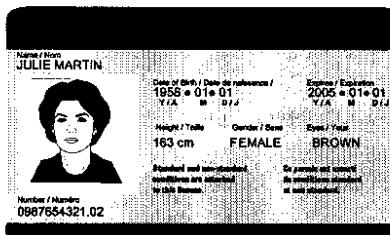
To apply for a **POL**  
(POSSESSION-ONLY LICENCE),  
complete page 1 only.

This licence will cover the possession of the firearms you already own, but will not allow you to acquire others.



To apply for a **PAL**  
(POSSESSION AND ACQUISITION LICENCE),  
complete pages 1 and 2.

This licence will cover the possession of firearms you already own and/or allow you to acquire others, which means you can buy, inherit or receive a firearm as a gift or in trade. There are additional requirements for this licence.



Let us help you with your application, please call 1 800 731-4000.

**IMPORTANT - CONTINUOUS ELIGIBILITY**

Once a licence is issued, the Chief Firearms Officer will be automatically notified if an incident of violence or threatened violence is recorded by the police or a firearms officer. An assigned firearms officer will then conduct an eligibility review which could result in licence revocation if circumstances warrant.

(LE PRÉSENT FORMULAIRE EST ÉGALEMENT DISPONIBLE EN FRANÇAIS.)



## REGULATIONS APPLYING TO ABORIGINAL PEOPLES

The Firearms Act includes regulations that apply particularly to Aboriginal peoples. If you are applying under these regulations, call 1 800 731-4000 to obtain information on the procedures and the documents to attach to your application.

If you are applying under these regulations, you must:

- be an Indian, an Inuit, a Métis or beneficiary under a land claims agreement referred to in section 35 of the Constitution Act, 1982;
- be a member of an Aboriginal community;
- engage in the traditional hunting practices of that Aboriginal community.

### INSTRUCTIONS

- Questions in **BOLD** with a "\*" in front have special instructions.
- They will help you understand the questions better so that you can answer correctly.
- An incomplete application will result in processing delays.

**Boxes 8a) to 8f) - Residence address:** You must provide the physical location of the place where you live. This information is not necessarily where you are receiving your mail. If you do not have an address with a street number and a street name because you are living in a rural area, please indicate your rural address (for example, lot and concession number).

**Boxes 9a) to 9f) - Mailing address:** The mailing address is the location where you are receiving your mail. Provide this address only if it is different from your residence address.

**Boxes 13a), b) and c) -** You are required to name one piece of identification. It must be an official piece of identification issued by a federal, provincial, territorial, regional or city government and it must have a number.

**In Box 13a),** print the type of identification you are listing (for example, driver's licence, health card, passport, birth certificate, citizenship certificate, permanent resident document or other similar document).

**In Box 13b),** print the name of the province / state / country that issued the identification.

**In Box 13c),** print the number of that piece of identification (for example, your driver's licence number, your passport number, etc.).

**Box 14 -** If you checked Box 14d), you **MUST** apply for acquisition privileges by completing page 2 of this application unless you are applying under the regulations that apply particularly to Aboriginal peoples.

You must put a "✓" in the boxes that correspond to the classes of firearms that you currently own. This information is required to ensure that the licence you will receive includes all the classes of firearms that you possess and that you are allowed to possess, transport, carry or borrow. If you are unsure of the class of firearm that you currently own, call 1 800 731-4000 for further information.

If you checked Box 14b) or Box 14c), please provide the registration certificate number of at least one of your restricted or prohibited firearms in order to expedite the process.

The definitions below may help you answer question 14, which asks about the classes of firearms you already own.

**Non-restricted firearm:**

- an ordinary rifle, shotgun or combination gun that is not described below as being restricted or prohibited.

**Restricted firearm:**

- a handgun that is not a prohibited firearm.
- a semi-automatic, centre-fire rifle or shotgun with a barrel length less than 470 mm (18 1/2 in) that is not prohibited.
- a rifle or shotgun that can fire after being reduced by any temporary means (folding, telescoping) to an overall length of less than 660 mm (26 in).
- any firearm classified by the Governor in Council and prescribed under the Criminal Code as being restricted (including some long guns).

**Prohibited firearm:**

- a prohibited handgun, that is, with a barrel of 105 mm (4 1/8 in) or less, or designed or adapted to discharge a 25 or 32 calibre cartridge.
- a rifle or shotgun that has been changed to make it less than 660 mm (26 in) in overall length.
- a rifle or shotgun that has been changed to make it 660 mm (26 in) or more in overall length, with a barrel less than 457 mm (18 in).
- automatic firearms or converted automatic firearms.
- any firearm classified by the Governor in Council and prescribed under the Criminal Code as being prohibited.

**Certain handguns used in international sporting competitions are exempt from the definition of prohibited firearm. For a list of these, please call 1 800 731-4000.**

**Part C -** You are required to include a current photograph of yourself (similar to those used for passports) signed by anyone who has known you for at least 1 year. For all the photo details, see the page containing the labels.

**Box 20a) -** You will qualify as a sustenance hunter only if you require firearms to hunt or trap in order to sustain yourself or your family. If you are applying as a sustenance hunter, you are not required to pay a fee for non-restricted firearms. To determine if you are a sustenance hunter and what kind of documentation may be required, call 1 800 731-4000.

The fee for a Possession-Only Licence depends on when you apply.

Until October 15, 2000: \$10. After October 15, 2000: \$60

The fee for a Possession and Acquisition Licence depends on the class(es) of firearm(s) you are applying to acquire.

Non-restricted firearms: \$60. Restricted firearms: \$80. Prohibited firearms: \$80.

**Box 23a) -** To get a Possession and Acquisition Licence for non-restricted firearms, you must have passed the test for the Canadian Firearms Safety Course (CFSC). Complete Box 23a) if this applies to you. If you passed this test before February 1, 1999, you will also qualify for restricted firearms.

**Box 23b) -** To get a Possession and Acquisition Licence for restricted or prohibited firearms, you must have passed two safety tests - the Canadian Firearms Safety Course and the Canadian Restricted Firearms Safety Course. Complete Box 23b) if this applies to you. If you took the Canadian Firearms Safety Course before February 1, 1999, you are considered to have met both these requirements.

**Box 23c) -** In Manitoba and Quebec, many hunter safety or similar courses taken prior to 1994 were approved as being equal to the CFSC requirement. If this applies to you, complete Box 23c), including the name of the course; if you are unsure, call 1 800 731-4000.

Finally, the Chief Firearms Officer has the authority to alternatively certify that you meet the requirements regarding the safe handling and use of firearms and the laws relating to firearms. If you have such a document, then put a "✓" in the "yes" part of Box 23c) and provide a photocopy of this document with your application.

**Box 25 -** Put a "✓" in the box that shows the class of firearm you are applying to acquire. If you are unsure of the class of firearm that you are applying to acquire, please call 1 800 731-4000 for assistance.

If you are applying for a licence that allows you to acquire a prohibited handgun manufactured prior to 1946, that you are receiving as a spouse, brother, sister, child or grandchild, and if you are not grandfathered to possess prohibited handguns, please call 1 800 731-4000 for further instructions.

If you are applying for a Possession and Acquisition Licence for employment purposes, check Box 25d).

**PARTS I and J, Boxes 26 and 27 -** A spouse is a person to whom you are legally married. A common-law partner, including a same-sex common-law partner, is a person with whom you have lived as a couple for 3 months or more.

The signature of your current spouse or common-law partner, or your former spouse(s) or common-law partner(s), is not legally required. However, if their signatures are not provided, the Chief Firearms Officer has a duty to notify them of this application.

**Boxes 26a) to 26f) -** Please provide information regarding a spouse or common-law partner with whom you now live.

**Boxes 27a) to 27j) -** Please provide information regarding all former spouses or common-law partners with whom you have lived in the last 2 years. (Attach a separate page if needed.) If the current address and/or telephone number of your former spouse or common-law partner is unknown, please put a (✓) in the box under question 27g).

ALL APPLICANTS MUST COMPLETE THIS PAGE					
APPLICATION FOR A LICENCE UNDER THE FIREARMS ACT (POL)					
<b>PART A: PERSONAL INFORMATION</b> * See instructions on left page.					
1a) Last name	1b) First name	1c) Middle name	2. Language <input type="checkbox"/> English <input type="checkbox"/> French		
3a) Have you ever changed your name (including by marriage)? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, indicate previous names in Boxes 3b) and 3c). (Attach a separate page, if necessary.)		3b) Previous last name	3c) Previous first name		
4. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	5. Eye colour	6. Height <input type="checkbox"/> cm <input type="checkbox"/> ft./in	7. Telephone number and time when you may be contacted ( ) ( ) ( ) ( ) ( ) ( ) <input type="checkbox"/> day <input type="checkbox"/> evening		
* 8a) Residence address - Street / Land Location				8b) Apt. / Unit	
8c) City		8d) Province / State	8e) Country	8f) Postal / Zip code	
* 9a) Mailing address (if different from the residence address) - Street / Rural route / PO Box number				9b) Apt. / Unit	
9c) City		9d) Province / State	9e) Country	9f) Postal / Zip code	
10a) Date of birth (Y-M-D)	10b) Place of birth (City / Province / State / Country)		11. If you were born outside of Canada, in what year were you admitted to Canada?		
12a) Have you ever had a Firearms Acquisition Certificate (FAC) or a firearms licence? <input type="checkbox"/> No <input type="checkbox"/> Yes → If yes, please write your number (if known). →		12b) Province of issue			
* 13a) Type of identification		* 13b) Province / State / Country of issue	* 13c) Identification number		
<b>PART B: CLASSES OF FIREARMS CURRENTLY OWNED</b>					
* 14. Indicate the classes of firearms you currently own. (See Instructions for definitions.)					
<input type="checkbox"/> a) Non-restricted firearms <input type="checkbox"/> b) Restricted firearms <input type="checkbox"/> c) Prohibited firearms <input type="checkbox"/> d) None		In order to expedite the process, please provide the Registration Certificate number of at least one of your RESTRICTED or PROHIBITED firearms:			
<b>PART C: PHOTO GUARANTOR</b> (See the page containing the labels for complete details on photo.)					
15a) Guarantor's last name		15b) Guarantor's first name		16. Telephone number and time when he/she may be contacted ( ) ( ) ( ) ( ) ( ) ( ) <input type="checkbox"/> day <input type="checkbox"/> evening	
I declare that the photograph on the back of which I have printed and signed my name is an accurate picture of the applicant.					
17. Guarantor's signature				18. Date (Y-M-D)	
<b>PART D: PERSONAL HISTORY</b>					
A "YES" answer does not necessarily mean your application will be refused; it may lead to further examination. IF YOU HAVE RECEIVED A PARDON FOR ANY ITEM LISTED BELOW, YOU ARE NOT REQUIRED TO REPORT THAT ITEM.					
19a) During the past five years, have you been charged, convicted or granted a discharge for an offence: (i) under the Criminal Code or the Young Offenders Act where violence was used, threatened or attempted; (ii) involving the misuse, possession, or storage of a firearm; or (iii) involving trafficking or importing drugs or controlled substances? <input type="checkbox"/> Yes <input type="checkbox"/> No					
19b) During the past five years, have you been subject to a peace bond or a protection order? <input type="checkbox"/> Yes <input type="checkbox"/> No					
19c) During the past five years, have you or any member of your household been prohibited from possessing any firearm? <input type="checkbox"/> Yes <input type="checkbox"/> No					
19d) During the past five years, have you threatened or attempted suicide, or have you been diagnosed or treated by a medical practitioner for: depression; alcohol, drug or substance abuse; behavioural problems; or emotional problems? <input type="checkbox"/> Yes <input type="checkbox"/> No					
19e) During the past five years, do you know if you have been reported to the police or social services for violence, threatened or attempted violence, or other conflict in your home or elsewhere? <input type="checkbox"/> Yes <input type="checkbox"/> No					
19f) During the past two years, have you experienced a divorce, a separation, a breakdown of a significant relationship, job loss or bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No					
If you answer YES to any of the questions in Part D, please provide details on a separate page.					
<b>PART E: FEE</b> <input type="checkbox"/> Check this box if you are a sustenance hunter. (Please read the instructions for Box 20a.)					
* 20a) Fee enclosed \$		20b) Indicate method of payment. Do not send cash. If you are paying by cheque or money order, make it payable to: Receiver General. <input type="checkbox"/> Cheque <input type="checkbox"/> Certified cheque <input type="checkbox"/> Money order <input type="checkbox"/> Visa <input type="checkbox"/> Master Card			
If paying by credit card, please complete this section. →		20c) Credit card number	20d) Expiry date	20e) Signature of credit card holder (if different from applicant)	
<b>PART F: APPLICANT DECLARATION</b>					
I declare that the information provided on this form is true and correct to the best of my knowledge and that the photograph enclosed is of me.					
21. Applicant's signature				22. Date (Y-M-D)	
IT IS AN OFFENCE UNDER SECTION 109 OF THE FIREARMS ACT TO KNOWINGLY MAKE A FALSE OR MISLEADING STATEMENT, EITHER ORALLY OR IN WRITING, WHEN APPLYING FOR LICENCES, REGISTRATION CERTIFICATES OR AUTHORIZATIONS.					
IF APPLYING FOR A POSSESSION-ONLY LICENCE, COMPLETE ONLY THIS PAGE.					

**ONLY APPLICANTS APPLYING FOR ACQUISITION PRIVILEGES MUST COMPLETE THIS PAGE (PAL)**

**PART G: SAFETY TRAINING CERTIFICATION (See instructions.)**

\* 23a) Have you passed the Canadian Firearms Safety Course test?  
 No  Yes If yes → Province \_\_\_\_\_ Date (Year) \_\_\_\_\_  Proof attached (if available)

\* 23b) Have you passed the Canadian Restricted Firearms Safety Course test?  
 No  Yes If yes → Province \_\_\_\_\_ Date (Year) \_\_\_\_\_  Proof attached (if available)

\* 23c) Have you been otherwise certified by the Chief Firearms Officer as meeting the safety training requirements or have you successfully completed a course approved by the Attorney General of Manitoba or Quebec?  
 No  Yes If yes, specify → \_\_\_\_\_  Proof attached

**PART H: OTHER INFORMATION**

24. If you are a NON-RESIDENT OF CANADA, in which province or territory will you be using your firearm(s) the most?

\* 25. Indicate the reason(s) that you are applying for this firearms licence.  
 a) To acquire non-restricted firearms  b) To acquire restricted firearms  c) To acquire prohibited firearms, including prohibited handguns  
 d) I am applying for a possession and acquisition licence for employment purposes

**\* PART I: INFORMATION ABOUT SPOUSE / COMMON-LAW PARTNER YOU ARE LIVING WITH. Provide information on the spouse or common-law partner with whom you are currently living. (See instructions.)**

Not applicable. I am not living with a spouse or common-law partner.  
 Your spouse or common-law partner will be notified of this application if he or she has not signed below.

26a) Spouse or common-law partner's last name \_\_\_\_\_ 26b) Spouse or common-law partner's first name \_\_\_\_\_ 26c) Date of birth (Y-M-D) \_\_\_\_\_

FOR ANY SAFETY CONCERNS ABOUT THIS APPLICATION, PLEASE CALL 1 800 731-4000.

26d) Telephone number and time when he/she may be contacted \_\_\_\_\_ 26e) Signature of spouse or common-law partner \_\_\_\_\_ 26f) Date (Y-M-D) \_\_\_\_\_  
 day  evening

**\* PART J: INFORMATION ABOUT SPOUSES / COMMON-LAW PARTNERS YOU ARE NO LONGER LIVING WITH. Provide information on any spouse or common-law partner (other than any person named in Part I above) with whom you have lived at any time during the past 2 years. (See instructions.)**

Not applicable. I have not lived with a spouse or common-law partner in the past 2 years (other than any person named in Part I above).  
 Your former spouse(s) or common-law partner(s) will be notified of this application if they have not signed below.

27a) Former spouse or common-law partner's last name \_\_\_\_\_ 27b) Former spouse or common-law partner's first name \_\_\_\_\_

27c) Date of birth (Y-M-D) \_\_\_\_\_ 27d) Telephone number and time when he/she may be contacted \_\_\_\_\_  
 day  evening

27e) Street / Rural route / PO Box number \_\_\_\_\_ 27f) Apt. / Unit \_\_\_\_\_

27g) City \_\_\_\_\_ 27h) Province / State \_\_\_\_\_ 27i) Country \_\_\_\_\_ 27j) Postal / Zip code \_\_\_\_\_

I declare that I do not know the current address and/or telephone number of my former spouse / common-law partner.  
 FOR ANY SAFETY CONCERNS ABOUT THIS APPLICATION, PLEASE CALL 1 800 731-4000.

27k) Signature of former spouse or common-law partner \_\_\_\_\_ 27l) Date (Y-M-D) \_\_\_\_\_

**PART K: FIRST REFERENCE (CANNOT BE your spouse and must have known you for at least 3 years)**

28a) Reference's last name \_\_\_\_\_ 28b) Reference's first name \_\_\_\_\_ 28c) Telephone number and time when he/she may be contacted \_\_\_\_\_  
 day  evening

28d) Reference's address \_\_\_\_\_ 28e) Apt. / Unit \_\_\_\_\_

28f) City \_\_\_\_\_ 28g) Province / State \_\_\_\_\_ 28h) Country \_\_\_\_\_ 28i) Postal / Zip code \_\_\_\_\_

I have known the applicant for THREE YEARS or more. I have read the information supplied by this individual on the above application and find it to be accurate to the best of my knowledge and belief. I know of no reason why, in the interest of safety, the applicant should not be given a licence to possess and acquire firearms.

28j) Reference's signature \_\_\_\_\_ 28k) Date (Y-M-D) \_\_\_\_\_

**PART L: SECOND REFERENCE (CANNOT BE your spouse and must have known you for at least 3 years)**

29a) Reference's last name \_\_\_\_\_ 29b) Reference's first name \_\_\_\_\_ 29c) Telephone number and time when he/she may be contacted \_\_\_\_\_  
 day  evening

29d) Reference's address \_\_\_\_\_ 29e) Apt. / Unit \_\_\_\_\_

29f) City \_\_\_\_\_ 29g) Province / State \_\_\_\_\_ 29h) Country \_\_\_\_\_ 29i) Postal / Zip code \_\_\_\_\_

I have known the applicant for THREE YEARS or more. I have read the information supplied by this individual on the above application and find it to be accurate to the best of my knowledge and belief. I know of no reason why, in the interest of safety, the applicant should not be given a licence to possess and acquire firearms.

29j) Reference's signature \_\_\_\_\_ 29k) Date (Y-M-D) \_\_\_\_\_

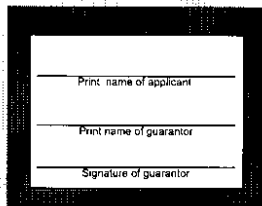
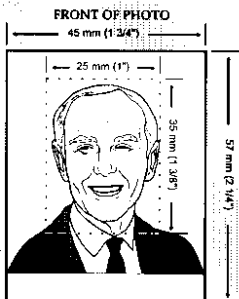
IT IS AN OFFENCE UNDER SECTION 106 OF THE FIREARMS ACT TO KNOWINGLY MAKE A FALSE OR MISLEADING STATEMENT, EITHER ORALLY OR IN WRITING, WHEN APPLYING FOR LICENCES, REGISTRATION CERTIFICATES OR AUTHORIZATIONS.

**PART C** - You are required to include a current black and white or colour photograph of yourself (similar to those used for passports).

The requirements for the photo are as follows:

- photo must be no larger than 45 mm by 57 mm (1 3/4" x 2 1/4");
- your face should be approximately 25 mm by 35 mm (1" X 1 3/8") in size;
- full front view of your head and shoulders (head straight);
- use a plain background;
- do not wear a hat or sunglasses.

You are also required to have someone sign Part C of this form to show that the photograph is of you. Your photo guarantor must have known you for at least 1 year and can be your spouse. You and your photo guarantor are required to print your names on the back of the photo, and your guarantor must also sign the back of the photograph.



**AFFIX THIS STICKER TO THE BACK OF YOUR PHOTO.**  
 Complete it, have your guarantor sign the back of the photo as well as your application.  
 Then insert the photo in the envelope with your application.

Information in this application is obtained under the authority of the Firearms Act. The information will be used to determine eligibility under the Act and to administer and enforce the firearms legislation. In addition to the provisions outlined in the Firearms Act, individual rights regarding personal information are governed by the appropriate federal, provincial or territorial legislation governing access to information, freedom of information and/or privacy. Under Section 55 of the Firearms Act, the firearms officer has the right to ask the applicant for additional information, or to conduct an investigation, by contacting the applicant's references, photo guarantor, spouse, neighbours and others to determine if a firearms licence should be issued.

**LABEL TO BE PLACED ON THE RETURN ENVELOPE**

Put a "✓" in the POL box if you have only completed the 1st page of the application.  
 Put a "✓" in the PAL box if you have completed pages 1 and 2 of the application.

POL     PAL

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PO BOX 1200  
 MIRAMICHI NB E1N 5Z3

POL     PAL

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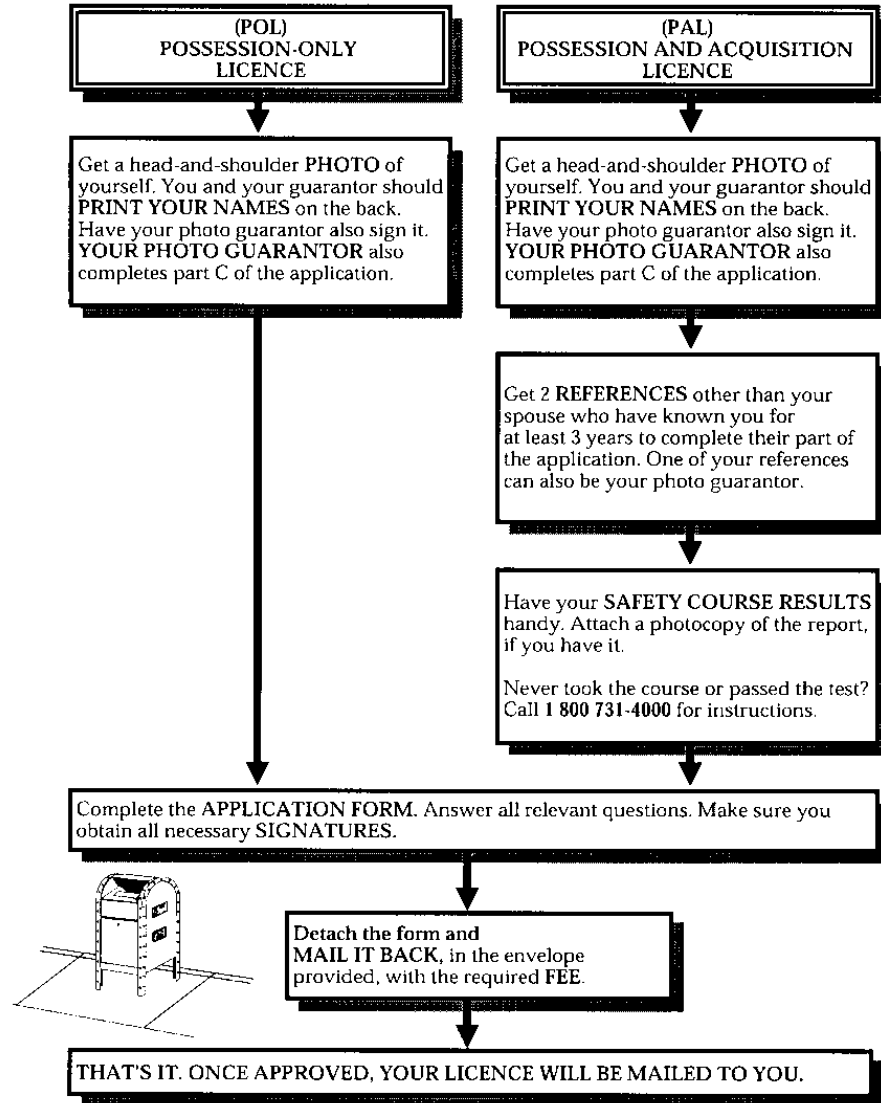
SÛRETÉ DU QUÉBEC  
 DIRECTION DES PERMIS  
 1681 RUE PARTHENAIS  
 MONTRÉAL QC H2K 4S8

RESIDENTS FROM ANYWHERE OTHER THAN QUEBEC, USE THIS LABEL.

QUEBEC RESIDENTS, USE THIS LABEL.



## TO OBTAIN A LICENCE UNDER THE FIREARMS ACT (for Individuals aged 18 and over)



### YOU SHOULD KNOW

- Firearms Licence applications involve a variety of background checks. In some cases, in-depth investigations are conducted.
- There is a minimum 28-day waiting period for a Possession and Acquisition Licence if you do not already have a licence or a FAC.
- Your licence is **VALID FOR 5 YEARS**.

You will also need to register or re-register all of your firearms by January 1, 2003 and there are separate forms for this. You must have a licence or a valid FAC before you can register your firearms.

## **APPENDIX J – List of Studies Reviewed**

Abt Associates of Canada, “Response Assessment of the Draft FAC Application Form”, October 1992. Prepared for the Department of Justice.

James Bailey, Arthur Kelleremann, Grant Somes, Joyce Banton, Frederick Rivara, Norman Rushforth, “Risk Factors for Violent Death of Women in the Home”, *Archives of Internal Medicine*, Vol. 157, April 1997.

Jacquelyn Campbell et al, “Identifying Risk Factors for Femicide in Violent Intimate Relationships”, Johns Hopkins University School of Nursing, 1998.

Canadian Centre for Justice Statistics, “Family Violence in Canada: A Statistical Profile”, June 1999.

Canadian Centre for Justice Statistics, “Family Violence in Canada: A Statistical Profile”, July 2000.

P. N. Cooper, and C. M. Milroy, Violent Suicides in South Yorkshire, England, *Journal of Forensic Sciences*, Vol. 39, 1994.

Maria Crawford, Rosemary Gartner, Myrna Dawson, “Intimate Femicide in Ontario, 1991-1994”, Ontario Women’s Directorate, March 1997.

Dansys Consultants Inc., “Domestic Homicides Involving the Use of Firearms”, March 1992. Prepared for the Department of Justice.

Orest Fedorowycz, “Homicides in Canada—1999”, Canadian Centre for Justice Statistics.

Sharon Moyer and Peter J. Carrington, “Gun Availability and Firearms Suicide”, July 1992. Prepared for the Department of Justice.

Sharon Moyer, Peter J. Carrington and Lee Axon, “A Prospective Study of Firearms Deaths: The Feasibility Component”, September 1998, Prepared for the Canadian Firearms Centre.

Lucie Nadeau, “Analyse critique des QUESTIONS pouvant faire partie du formulaire de demande d’autorisation d’acquisition d’armes à feu”, Juillet 1992.

Nico Peruzzi, “Eighth factors found critical in assessing suicide risk”, *Monitor on Psychology*, Vol. 31, February 2000. (A summary of a study.)

Eric Sigurdson, Douglas Staley, Manuel Matas, Keith Hildahl and Kathy Squair, “A Five Year Review of Youth Suicide in Manitoba”, *The Canadian Journal of Psychiatry*, Vol 39, October 1994.

Leslie M. Tutty, “Domestic Violence Involving Firearms in Alberta: Case Studies of Women and Children”, December 1999, Prepared for the Canadian Firearms Centre.

We also reviewed the following two studies that are on the Canadian Firearms Centre's web site:

Yvon Dandurand, "Firearms, Accidental Deaths, Suicides and Violent Crime: An Updated Review of the Literature with Special Reference to the Canadian Situation", 1998, Prepared for the Canadian Firearms Centre. (This is an updated version of the Gabor study.)

Thomas Gabor, "The Impact of the Availability of Firearms on Violent Crime, Suicide, and Accidental Death: A Review of the Literature with Special Reference to the Canadian Situation", 1994, Prepared for the Department of Justice.

Other DOJ documents assessed:

Letter to OPC from Counsel, Access to Information and Privacy, Department of Justice summarizing the social science, focus groups and other research that Justice believes justifies the questions, July 15, 1999.

"Discussion Paper" prepared by Counsel, Access to Information and Privacy, Department of Justice, December 14, 2000.

## **APPENDIX K – Breakdown of Questions 19(d) to (f)**

Question 19(d): During the past five years, have you threatened or attempted suicide, or have you been diagnosed or treated by a medical practitioner for: depression; alcohol, drug or substance abuse; behavioural problems; or emotional problems?

1. Have you threatened suicide?
2. ... attempted suicide?
3. ... been diagnosed for depression?
4. ... been diagnosed for alcohol abuse?
5. ... been diagnosed for drug abuse?
6. ... been diagnosed for substance abuse?
7. ... been diagnosed for behavioural problems?
8. ... been diagnosed for emotional problems?
9. ... been treated for depression?
10. ... been treated for alcohol abuse?
11. ... been treated for drug abuse?
12. ... been treated for substance abuse?
13. ... been treated for behavioural problems?
14. ... been treated for emotional problems?

Question 19(e): During the past five years, do you know if you have been reported to the police or social services for violence, threatened or attempted violence, or other conflict in your home or elsewhere?

1. Do you know if you have been reported to the police for violence in your home?
2. ... been reported to the police for violence elsewhere?
3. ... been reported to the police for threatened violence in your home?
4. ... been reported to the police for threatened violence elsewhere?
5. ... been reported to the police for attempted violence in your home?
6. ... been reported to the police for attempted violence elsewhere?
7. ... been reported to the police for other conflict in your home?
8. ... been reported to the police for other conflict elsewhere?
9. ... been reported to social services for violence in your home?
10. ... been reported to social services for violence elsewhere?
11. ... been reported to social services for threatened violence in your home?
12. ... been reported to social services for threatened violence elsewhere?
13. ... been reported to social services for attempted violence in your home?
14. ... been reported to social services for attempted violence elsewhere?
15. ... been reported to social services for other conflict in your home?
16. ... been reported to social services for other conflict elsewhere?



Question 19(f): During the past two years, have you experienced a divorce, separation, a breakdown of a significant relationship, job loss or bankruptcy?

1. Have you experienced a divorce?
2. ... a separation?
3. ... a breakdown of a significant relationship?
4. ... job loss?
5. ... bankruptcy?