



Bill C-21: An Act to amend certain Acts and to make certain consequential amendments (firearms)

BRIEF BY

The National Association of Women and the Law

And endorsed by the following organizations :

Feminist Alliance for International Action

Calgary Legal Guidance

Regroupement des maisons pour femmes victimes de violence conjugale

The National Council of Women of Canada

Women's Shelters Canada

Battered Women's Support Services

Canadian Association of Elizabeth Fry Societies

PolySeSouvient

Canadian Research Institute for the Advancement of Women

Ending Violence Association of Canada

Alliance des maisons d'hébergement de 2e étape

Fédération des maisons d'hébergement pour femmes

Canadian Council of Muslim Women

White Ribbon

November 4, 2022

The National Association of Women & the Law
BILL C-21 RECOMMENDATIONS: SAFETY FIRST

About NAWL

The National Association of Women and the Law (NAWL) works to achieve substantive equality and the realization of human rights for all women in Canada through legal education, research, strategic intervention, coalition work, and feminist law reform advocacy, particularly at the federal level.

Since our founding in 1974, we are proud to have had a major role in achieving significant milestones for Canadian women's equality, and for our feminist legal analysis and advocacy to have impacted countless laws and policies across the country—most notably in relation to sexual assault legislation, the Canadian Human Rights Act, and sections 15 and 28 of the Canadian Charter of Rights and Freedoms.

Today, we continue to write briefs and discussion papers and appear before Parliamentary and Senate committees. We also meet with decision makers to influence the law-making process on current and emerging feminist law reform priorities. Ending violence against women is one of our three priority areas (together with reproductive rights and women's rights in relation to the climate crisis).

Summary

In this submission, NAWL echoes the voices of other women's organizations in supporting the steps the government has taken in Bill C-21 to better protect public safety. We applaud the many steps that the Government has taken with this Bill to make our communities safer for women and all people at risk of suffering from gun violence. While generally supportive of Bill C-21, NAWL offers the following recommended amendments to ensure the safety of victims of domestic and family violence in relation to firearms. We recommend changes on eight fronts and provide a list of our proposed amendments in order at the end of this document.

1) Don't let gun owners chose how to dispose of the gun and don't give dangerous owners their gun back

The current situation: Bill C-21 not only offers gun owners whose licence is revoked the option to deliver the firearm or lawfully dispose of it, it also authorizes judges to return firearms to the individual. Individuals who are dangerous and know this is their last chance to use the gun will have it in their possession for up to 30 days.

The problem: Judges should not have the discretion to return a firearm, removed by reason of domestic violence, for the gun owner to "lawfully dispose" of it. There is no legitimate interest for

the gun owner that would outweigh the heightened risk that this possibility poses. For example, a gun owner could give or sell his gun to his friend or brother with the understanding that he would still have access to it. Returning the gun to a person who has lost their license is contrary to the spirit and intent of the bill: to keep guns *away* from violent and dangerous abusers.

The solution: We recommend removing the option to lawfully dispose of the gun throughout the Bill and instead ensure swift and safe removal by the authorities and/or delivery to a peace officer.

Bill C-21	NAWL's recommendations
<p>36 The Act is amended by adding the following after section 70:</p> <p>...</p> <p>Revocation — protection order 70.2 (1) If an individual becomes subject to a protection order, their licence is automatically revoked and they must, within the prescribed period, deliver to a peace officer or otherwise lawfully dispose of any firearm that they possess. Sections 91, 92 and 94 of the Criminal Code do not apply to the individual in relation to such a firearm during that period.</p> <p>...</p>	<p>36 The Act is amended by adding the following after section 70:</p> <p>...</p> <p>Revocation — protection order 70.2 (1) If an individual becomes subject to a protection order, their licence is automatically revoked and they must, within the prescribed period, deliver to a peace officer or otherwise lawfully dispose of any firearm that they possess. Sections 91, 92 and 94 of the Criminal Code do not apply to the individual in relation to such a firearm during that period.</p> <p>...</p>
<p>37 Subsections 72(4) to (6) of the Act are replaced by the following:</p> <p>Disposal of firearms, etc. (4) A notice given under subsection (1) in respect of a licence must specify a reasonable period during which the applicant for or holder of the licence may deliver to a peace officer or a firearms officer or a chief firearms officer or otherwise lawfully dispose of any firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition that the applicant for or holder of the licence possesses and during which sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm, prohibited weapon, restricted weapon or prohibited device or such prohibited ammunition.</p>	<p>37 Subsections 72(4) to (6) of the Act are replaced by the following:</p> <p>Disposal of firearms, etc. (4) A notice given under subsection (1) in respect of a licence must specify a reasonable period during which the applicant for or holder of the licence may deliver to a peace officer or a firearms officer or a chief firearms officer or otherwise lawfully dispose of any firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition that the applicant for or holder of the licence possesses and during which sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm, prohibited weapon, restricted weapon or prohibited device or such prohibited ammunition. Except in exceptional circumstances involving practical</p>

Disposal of firearms — registration certificate

(5) A notice given under subsection (1) in respect of a registration certificate for a prohibited firearm or a restricted firearm must specify a reasonable period during which the applicant for or holder of the registration certificate may deliver to a peace officer or a firearms officer or a chief firearms officer or otherwise lawfully dispose of the firearm to which the registration certificate relates and during which sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a prohibited firearm or restricted firearm.

Reference

(6) If the applicant for or holder of a licence refers the refusal to issue it or revocation of it to a provincial court judge under section 74, they must, within three days after referring the matter, deliver to a peace officer or otherwise lawfully dispose of any firearm that they possess. Sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm during that three-day period.

Order — return of firearm

(7) If the decision of the chief firearms officer is confirmed, the judge may, if a firearm was delivered to a peace officer under subsection (6), order the return of the firearm to the applicant for or holder of the licence, in order for the applicant or holder to lawfully dispose of it.

Conditions

(8) When making an order under subsection (7), the judge may impose any conditions that

impossibility, the prescribed period shall be 24 hours.

Disposal of firearms — registration certificate

(5) A notice given under subsection (1) in respect of a registration certificate for a prohibited firearm or a restricted firearm must specify a reasonable period during which the applicant for or holder of the registration certificate may deliver to a peace officer or a firearms officer or a chief firearms officer ~~or otherwise lawfully dispose of~~ the firearm to which the registration certificate relates and during which sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a prohibited firearm or restricted firearm. Unless such notice period would place the individual in a position of practical impossibility, the prescribed period shall be 24 hours.

Reference

(6) If the applicant for or holder of a licence refers the refusal to issue it or revocation of it to a provincial court judge under section 74, they must still deliver any firearm that they possess to a peace officer within the period referred to in section 72(4).

Order — return of firearm

(7) If the reference or appeal has been finally determined and if the decision of the chief firearms officer is infirmed, the judge must, if a firearm was delivered to a peace officer under subsection (6), order the return of the firearm to the applicant for or holder of the licence.

Conditions

(8) When making an order under subsection (7), the judge may impose any

<p>they consider appropriate in the interests of the safety of the applicant for or holder of the licence or any other person, including</p> <p>(a) the time within which and manner in which the firearm is to be returned;</p> <p>(b) the manner in which the applicant or holder is to have access to the firearm during the period beginning with the return of the firearm and ending with its disposal; and</p> <p>(c) the manner in which the firearm is to be disposed of.</p> <p>Effect</p> <p>(9) An order made under subsection (7) takes effect on</p> <p>(a) the day after the day on which the period for making an appeal has expired, if no appeal is made; or</p> <p>(b) the day on which a final determination is made in respect of the appeal, if an appeal is made and the decision of the chief firearms officer is confirmed.</p> <p>If decision confirmed</p> <p>(10) If the appeal has been finally determined and the decision of the chief firearms officer is confirmed, the applicant for or holder of the licence must lawfully dispose of a firearm that was delivered to a peace officer under subsection (6) within 30 days after the day on which the firearm is returned to them. Sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm during that 30-day period.</p>	<p><u>conditions that they consider appropriate in the interests of the safety of the applicant for or holder of the licence or any other person, including</u></p> <p><u>(a) the time within which and manner in which the firearm is to be returned;</u></p> <p><u>(b) the manner in which the applicant or holder is to have access to the firearm during the period beginning with the return of the firearm and ending with its disposal; and</u></p> <p><u>(c) the manner in which the firearm is to be disposed of.</u></p> <p><u>Effect</u></p> <p><u>(9) An order made under subsection (7) takes effect on</u></p> <p><u>(a) the day after the day on which the period for making an appeal has expired, if no appeal is made; or</u></p> <p><u>(b) the day on which a final determination is made in respect of the appeal, if an appeal is made and the decision of the chief firearms officer is confirmed.</u></p> <p><u>If decision confirmed</u></p> <p><u>(10) If the appeal has been finally determined and the decision of the chief firearms officer is confirmed, the applicant for or holder of the licence must lawfully dispose of a firearm that was delivered to a peace officer under subsection (6) within 30 days after the day on which the firearm is returned to them. Sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm during that 30-day period.</u></p>
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2) Remove the employment exception

The current situation: Bill C-21 amends the Firearms Act so that individuals who commit domestic violence or are subject to a protection order get their licence revoked. However, according to new section 70.3, a chief firearms officer may issue a conditional licence, despite a person having engaged in domestic violence, if the revocation ‘constitutes a virtual prohibition against employment in the only vocation open to the individual’.

The problem: A job that requires using a gun is *never* the only vocation open to an individual. Regardless of an individual’s past or qualifications, there will always be jobs available to them that do not have that requirement, including jobs that do not require any particular qualification. Therefore, we are concerned about how this section would be interpreted and how permissive chief firearm officers may be in granting conditional licences not based on *need*, but based on an individual’s job *preference*.

Even if a person had difficulty finding a job that does not require the handling of a gun, this individual’s interest in finding employment cannot trump the safety interest of their partner or other people they may have endangered by committing family violence against them.

Research suggests that police officers are even more likely than the general population to commit physical violence against a partner¹. Needless to say, the obstacles to reporting domestic violence are heightened for victims of police officers. Police officers are rarely disciplined or prosecuted for acts of domestic violence². They should not benefit from a legal exemption to losing their licence when they do so. Moreover, at a time where the police’s reaction to complaints of sexual and domestic violence are increasingly scrutinized and where the public’s confidence in the institution is weakened, having police officers who engage in domestic violence change careers (or, at the very least, work without a firearm) is *not* a drawback.

Whatever a person’s job is, having guns is a privilege, not a right. Women’s rights to safety, and their protection from extreme physical violence and murder, need to be prioritized.

The solution: We ask the House to remove the employment exemption by amending section 36 of the Bill.

Bill C-21	NAWL’s recommendation
<p>36 The Act is amended by adding the following after section 70:</p> <p>...</p> <p>Conditional licence 70.3 Subject to section 5, a chief firearms officer may, in the prescribed circumstances, issue a licence that is subject to the conditions that the chief firearms officer considers appropriate to an individual referred to in section 6.1, 70.1 or 70.2 if the individual establishes to the satisfaction of the chief firearms officer that</p>	<p>36 The Act is amended by adding the following after section 70:</p> <p>...</p> <p>Conditional licence 70.3 Subject to section 5, a chief firearms officer may, in the prescribed circumstances, issue a licence that is subject to the conditions that the chief firearms officer considers appropriate to an individual referred to in section 6.1, 70.1 or 70.2 if the individual establishes to the satisfaction of the chief firearms officer that they need a firearm to</p>

¹ [‘Police Wife’: The secret epidemic of police domestic violence – Canadian Dimension](#)

² [‘Police Wife’: The secret epidemic of police domestic violence – Canadian Dimension](#)

<p>(a) they need a firearm to hunt or trap in order to sustain themselves or their family; or (b) the revocation constitutes a virtual prohibition against employment in the only vocation open to the individual.</p>	<p><u>hunt or trap in order to sustain themselves or their family.</u></p>
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3) Strengthen the provision regarding licence revocation in cases of domestic violence

The current situation: Bill C-21 states that a Chief Firearms Officer must revoke an individual’s licence if they “determine[e] that [the] individual who holds [the] licence has engaged in an act of domestic violence or stalking”. In the French version of the Bill, the Chief Firearms Officer must be “convinced” (*convaincu*) that the individual has engaged in such an act.

The problem: We are concerned about giving Chief Firearms Officers broad discretion to “determine” whether domestic violence has occurred. Moreover, the Bill should adopt the bias of erring on the side of safety when there is risk. It is important to recognize that a false negative (failing to identify a situation of domestic violence and failing to remove the gun) is more likely, and can have more dramatic consequences, than a false positive (losing one’s gun without having engaged in domestic violence). The threshold is too vague and too stringent.

The solution: We recommend strengthening the language of this provision to curtail discretion and prioritise safety:

Bill C-21	NAWL’s recommendations
<p>36 The Act is amended by adding the following after section 70:</p> <p>Revocation — domestic violence 70.1 If a chief firearms officer determines that an individual who holds a licence has engaged in an act of domestic violence or stalking, the chief firearms officer must revoke the licence.</p>	<p>36 The Act is amended by adding the following after section 70:</p> <p>Revocation — domestic violence 70.1 If a chief firearms officer <u>has reasonable grounds to suspect</u> that an individual who holds a licence <u>may have</u> engaged in an act of domestic or family violence or stalking, the chief firearms officer must revoke the licence.</p>

4) Ensure swift action and gun removal in dangerous situations

The current situation:

A situation of domestic or family violence may trigger different mechanisms:

- Licence suspension: A Chief Firearms Office may suspend a gun owner’s licence for up to 30 days (s. 34 of Bill C-21, adding s. 69.1 to the Firearms Act). While their licence is

suspended, the gun owner “shall not use, acquire or import firearms” (s. 34 of Bill C-21, adding s. 69.2 to the Firearms Act). This does not lead to guns being seized.

- *Ex parte* application: a person may make an *ex parte* application, following which a judge may make an emergency prohibition order leading to guns being seized (s. 4 of Bill C-21, adding sections 110.1 to 110.4 to the Firearms act).
- Protection order: a competent authority may make or vary a protection order, which makes a person ineligible to obtain a licence and should trigger the revocation of an existing licence. The competent authority must inform the Chief Firearms Officer “without delay”. The chief firearms officer then gives notice to the licence holder (there is no timeline for this) and specifies “*a reasonable period* during which the applicant for or holder of the licence may deliver to a peace officer or a firearms officer or a chief firearms officer or otherwise lawfully dispose” of the weapon. The firearms officer may grant a conditional licence (s. 36 of Bill C-21, adding s. 70.3 of the Firearms act). The gun owner has 30 days to refer the matter to a provincial judge, in which case they have three days to dispose of the gun or deliver it to a peace officer. If the revocation is confirmed, a judge may order the guns to be returned to the owner, who then has 30 days to dispose of it (s. 37 of Bill C-21, adding s. 72(7) and s. 72(10) to the Firearms act).
- Awareness of domestic violence: if the Chief Firearms Officer “determines” that domestic violence or stalking have taken place, they must revoke the licence (s. 36 of Bill C-21, adding s. 70.1 to the Firearms Act). The chief firearms officer then gives notice to the licence holder (there is no timeline for this) and specifies “a reasonable period during which the applicant for or holder of the licence may deliver to a peace officer or a firearms officer or a chief firearms officer or otherwise lawfully dispose” of the weapon. The firearms officer may grant a conditional licence (s. 36 of Bill C-21, adding s. 70.3 of the Firearms act). The gun owner has 30 days to refer the matter to a provincial judge, in which case they have three days to dispose of the gun or deliver it to a peace officer. If the revocation is confirmed, a judge may order the guns to be returned to the owner, who then has 30 days to dispose of it (s. 37 of Bill C-21, adding s. 72(7) and s. 72(10) to the Firearms act).

The problem: The first two measures are not sufficient. License suspension does not trigger gun removal, and someone who plans a murder is unlikely to be deterred by a prohibition from using their gun. The *ex parte* application process is likely to be risky and impractical for women whose safety is at risk. Therefore, our focus is on the revocation of the licence by the Chief Firearms Office when they become aware of a protection order or a situation of domestic violence or stalking.

We applaud the amendment to s. 72(6) of the Firearms act (s. 37 of C-21) that makes it so gun owners whose licence is revoked cannot keep the gun during reference and appeal processes. Consistent with this change, we ask that the law be strengthened throughout to ensure a swift removal of the guns. Why are guns returned to the person whose licence has been revoked for 30 days, and what might happen during those 30 days?

We are concerned that as soon as the gun owner knows that someone is coming for his guns, he might hide them or commit irreparable violence against his partner or ex-partner or another family member.

Acting extremely quickly can be essential to preventing a femicide. Too many steps or confusion regarding who removes the guns and when can have tragic consequences.

The solution: We recommend the following amendments to Bill C-21, in addition to recommendation #1.

Proactive regulatory and administrative measures are required to ensure that enforcement action is timely and effective, to address the heightened risk to victims at the time gun owners are alerted to the risk of loss of licence/firearms.

Moreover, effective education and training of those responsible for enforcement, including police officers and judges, are required.

Bill C-21	NAWL's recommendations
<p>36 The Act is amended by adding the following after section 70:</p> <p>Revocation — domestic violence 70.1 If a chief firearms officer determines that an individual who holds a licence has engaged in an act of domestic violence or stalking, the chief firearms officer must revoke the licence.</p> <p>Revocation — protection order 70.2 (1) If an individual becomes subject to a protection order, their licence is automatically revoked and they must, within the prescribed period, deliver to a peace officer or otherwise lawfully dispose of any firearm that they possess. Sections 91, 92 and 94 of the Criminal Code do not apply to the individual in relation to such a firearm during that period.</p> <p>Notice (2) A chief firearms officer must give notice, in the prescribed manner, of a revocation referred to in subsection (1) to the individual and must specify in the notice the period referred to in that subsection.</p>	<p>36 The Act is amended by adding the following after section 70:</p> <p>Revocation — domestic violence 70.1 If a chief firearms officer determines that an individual who holds a licence has engaged in an act of domestic violence or stalking, the chief firearms officer must revoke the licence <u>within 24 hours.</u></p> <p>Revocation — protection order 70.2 (1) If an individual becomes subject to a protection order, their licence is automatically revoked and they must, within the prescribed period, deliver to a peace officer any firearm that they possess. Sections 91, 92 and 94 of the Criminal Code do not apply to the individual in relation to such a firearm during that period.</p> <p>Notice (2) A chief firearms officer must give notice, in the prescribed manner, of a revocation referred to in subsection (1) to the individual and must specify in the notice the period referred to in that subsection. <u>Except in exceptional circumstances involving practical impossibility, the prescribed period shall be 24 hours.</u></p>

...

37 Subsections 72(4) to (6) of the Act are replaced by the following:

Disposal of firearms, etc.

(4) A notice given under subsection (1) in respect of a licence must specify a reasonable period during which the applicant for or holder of the licence may deliver to a peace officer or a firearms officer or a chief firearms officer or otherwise lawfully dispose of any firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition that the applicant for or holder of the licence possesses and during which sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm, prohibited weapon, restricted weapon or prohibited device or such prohibited ammunition.

Disposal of firearms — registration certificate

(5) A notice given under subsection (1) in respect of a registration certificate for a prohibited firearm or a restricted firearm must specify a reasonable period during which the applicant for or holder of the registration certificate may deliver to a peace officer or a firearms officer or a chief firearms officer or otherwise lawfully dispose of the firearm to which the registration certificate relates and during which sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a prohibited firearm or restricted firearm.

...

37 Subsections 72(4) to (6) of the Act are replaced by the following:

Disposal of firearms, etc.

(4) A notice given under subsection (1) in respect of a licence must specify a period during which the applicant for or holder of the licence may deliver to a peace officer or a firearms officer or a chief firearms officer any firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition that the applicant for or holder of the licence possesses and during which sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm, prohibited weapon, restricted weapon or prohibited device or such prohibited ammunition. Except in exceptional circumstances involving practical impossibility, the prescribed period shall be 24 hours.

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<p>Reference</p> <p>(6) If the applicant for or holder of a licence refers the refusal to issue it or revocation of it to a provincial court judge under section 74, they must, within three days after referring the matter, deliver to a peace officer or otherwise lawfully dispose of any firearm that they possess. Sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm during that three-day period.</p> <p>...</p> <p>41 Section 89 of the Act is renumbered as subsection 89(1) and is amended by adding the following:</p> <p>Protection order</p> <p>(2) Any competent authority that makes, varies or revokes a protection order shall have a chief firearms officer informed without delay of the protection order or its variation or revocation.</p>	<p>Reference</p> <p>(6) If the applicant for or holder of a licence refers the refusal to issue it or revocation of it to a provincial court judge under section 74, they <u>must still deliver any firearm that they possess to a peace officer within the period referred to in section 72(4).</u></p> <p>...</p> <p>41 Section 89 of the Act is renumbered as subsection 89(1) and is amended by adding the following:</p> <p>Protection order</p> <p>(2) Any competent authority that makes, varies or revokes a protection order shall have a chief firearms officer informed <u>within 24 hours</u> of the protection order or its variation or revocation.</p>
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5) Judicial involvement for people who have lost their license because of domestic violence

The current situation: A person who lost their license because of a determination that they engaged in domestic violence, because of an ex parte application or because of a protection order, could later reapply to get a license. Under the Firearms Act (section 5(2)), a history of violent behaviour or a domestic violence conviction are mere factors to be considered.

The problem: A violent person could reapply for a licence shortly after losing it and retaliate against their partner or ex-partner.

The solution: Given the role and political alignments of Chief Firearms Officers, we believe it would be safer if anyone who lost their license by reason of domestic or family violence had to apply to a provincial judge to get a new licence.

Firearms Act	NAWL's recommendations
<p>54(2) An application for a licence, registration certificate or authorization must be made to</p> <p>(a) a chief firearms officer, in the case of a licence, an authorization to carry or an authorization to transport; or</p> <p>(b) the Registrar, in the case of a registration certificate, an authorization to export or an authorization to import.</p>	<p><u>27.1 Section 54(2) of the Act is amended by replacing the “.” by “; or” at the end of paragraph 52(2)b) and by adding the following after paragraph (b):</u></p> <p><u>c) a provincial court judge, in the case of an individual who has previously been denied a license or whose licence has previously been revoked or suspended by application of sections 6.1, 69.1, 70.1 or 110.1.</u></p>

6) Remove lifetime ban for people subject to a protection order and strengthen other measures

The current situation: Bill C-21 prevents individuals from holding a licence “if they are or were subject to a protection order”. For context, the Firearms act, s. 5(2), currently includes protection orders as a *factor* in determining a person’s eligibility, but only if the Chief Firearms Officer considers that the individual “presently poses a threat or risk to the safety and security of any person”. Moreover, Bill C-21 enables a Chief Firearms Officer to revoke a licence if they determine that an individual who holds a licence has engaged in an act of domestic violence and stalking.

The problem: NAWL agrees that an individual who is subject to a protection order should not hold a firearms licence. However, we have concerns about a lifetime prohibition for anyone who has been subject to a protection order. We fear that, as an adverse consequence of this new provision, violent men will start objecting to applications for a protection orders (which are currently often granted with consent). An application for a protection order that is contested represents more delays, struggle and revictimization for the victim of intimate partner violence. Moreover, we are concerned that judges will become more hesitant to grant these protection orders, and we also have concerns about reciprocal protection orders which are often imposed on women who are victims of domestic violence.

The solution: We believe the ineligibility of having a license should be limited to people who are currently subject to a protection order. To support the application of this provision, we recommend establishing a national protection orders’ registry; consider that these provisions would become particularly difficult to enforce if someone moved to another province.

Moreover, having committed a violent offence against an intimate partner or family member should also render a person ineligible to have a licence under section 6.1, and not just be considered as a factor under section 5(2). We recognize that there is overlap here with prohibition orders under

the Criminal Code, but we believe NAWL’s proposed amendment makes the situation clearer to Chief Firearms Officers. It also covers offenders who were convicted of violent crimes on summary conviction.

The modification to section 5(2)(d) of the Firearms Act is also recommended to insert a safety bias into the granting of licences. A person may not currently pose a threat to their ex-partner (for example, if they are travelling abroad), or it may not be certain whether a person still poses a risk; when in doubt, the Chief Firearms Officer or the judge should err on the side of caution.

Bill C-21	NAWL’s recommendations
<p>16 The Act is amended by adding the following after section 6:</p> <p>Protection orders 6.1 Subject to section 70.3 and the regulations, an individual is not eligible to hold a licence if they are or were subject to a protection order.</p>	<p>16 The Act is amended by adding the following after section 6:</p> <p>Protection orders 6.1 Subject to section 70.3 and the regulations, an individual is not eligible to hold a licence if <u>they are</u> subject to a protection order <u>or have been convicted of an offence in the commission of which violence was used, threatened or attempted against the person’s intimate partner or former intimate partner or a family member.</u></p>
<p>Firearms Act</p> <p>Criteria 5 (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 ... (d) is or was previously prohibited by an order — made in the interests of the safety and security of any person — from communicating with an identified person or from being at a specified place or within a specified distance of that place, and presently poses a threat or risk to the safety and security of any person;</p>	<p>15.1 Subsection 5(2)(d) of the Act is replaced by the following:</p> <p>(d) is or was previously prohibited by an order — made in the interests of the safety and security of any person — from communicating with an identified person or from being at a specified place or within a specified distance of that place, and <u>poses or may pose</u> a threat or risk to the safety and security of any person;</p>

7) Include and define “domestic or family violence”

The current situation: The English version of Bill C-21 states that a Chief Firearms Officer must revoke an individual’s licence if that individual has engaged in an act of domestic violence or stalking. These terms – “domestic violence” and “stalking” are not defined. Violence towards a child, sibling or parent is not included.

The problem: We have two concerns regarding this provision. First, we fear that without a definition of domestic violence, chief firearm officers may adopt a restrictive definition that only

considers direct and injury-provoking physical assault as domestic violence. But other forms of intimate partner violence – including threats against a third-party, sexual control, violence against a companion animal, threats of self-harm to induce compliance, surveillance and many others – are also risk factors and must also lead to licence revocation. Second, while we applaud the focus on domestic violence in the Bill, other forms of family violence should also trigger this section. Note that the French version of the Bill speaks of “violence familiale” (family violence), creating a risk of inconsistency and confusion.

The solution: We recommend copying or referring to the definition of ‘family violence’ recently adopted into the Divorce Act:

Bill C-21	NAWL’s recommendations
<p>36 The Act is amended by adding the following after section 70:</p> <p>Revocation — domestic violence 70.1 If a chief firearms officer determines that an individual who holds a licence has engaged in an act of domestic violence or stalking, the chief firearms officer must revoke the licence.</p>	<p>36 The Act is amended by adding the following after section 70:</p> <p>Revocation — domestic <u>or family</u> violence 70.1 If a chief firearms officer has reasonable grounds to believe that an individual who holds a licence may have engaged in an act of <u>domestic or family violence</u> or stalking, the chief firearms officer must revoke the licence within 24 hours.</p> <p><u>70.1.1 For the purpose of section 70.1, domestic or family violence means any conduct, whether or not the conduct constitutes a criminal offence, by a family member towards another family member, including a conduct by and toward an intimate partner or ex-intimate partner, that is violent or threatening or that constitutes a pattern of coercive and controlling behaviour or that causes that other family member, intimate partner or ex-intimate partner to fear for their own safety or for that of another person, and includes</u></p> <p><u>(a) physical abuse, including forced confinement but excluding the use of reasonable force to protect themselves or another person;</u></p> <p><u>(b) sexual abuse;</u></p> <p><u>(c) threats to kill or cause bodily harm to any person;</u></p> <p><u>(d) harassment, including stalking;</u></p> <p><u>(e) the failure to provide the necessities of life;</u></p> <p><u>(f) psychological abuse;</u></p> <p><u>(g) financial abuse;</u></p>

	<p><u>(h) threats to kill or harm an animal or damage property; and</u></p> <p><u>(i) the killing or harming of an animal or the damaging of property;</u></p>
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8) Define “protection orders” in the regulations

The current situation: Bill C-21 prevents individuals who are or were subject to a protection order from being eligible to hold a firearms license. It also allows for the revoking of a person’s licence if they become subject to a protection order. Section 45 of the Bill, amending paragraph 117(a) of the Firearms act, indicates that “protection orders” may be defined in the accompanying regulations.

The problem: “Protection orders” can be given different names and take different forms. We emphasize the need for consultations on how to define them in the regulations. We also emphasize that the regulations *must* come into force at the same time as Bill C-21.

The solution: We recommend the following definition for protection orders:

Bill C-21	NAWL’s recommendation
Does not define “protection orders”	<p><u>Add the following definition to the regulations:</u></p> <p>Protection order: includes a probation order, a judicial interim release order, a peace bond under sections 810, 810.02, 810.1 or 810.2 of the <i>Criminal Code</i>, and an order or injunction made under the relevant provincial, territorial, federal or First Nations legislation in the context of civil or family law proceedings, if such order, peace bond or injunction is made to protect the safety of one or more persons or prohibits the person subject to the order from:</p> <ul style="list-style-type: none"> (a) being in physical proximity to a specified person or following a specified person from place to place; (b) contacting or communicating with a specified person, either directly or indirectly; (c) attending at or being within a certain distance of a specified place or location; (d) engaging in harassing or threatening conduct directed at a specified person; (e) occupying a family home or a residence; or (f) engaging in family violence.

List of proposed amendments, in order

15.1 Subsection 5(2)(d) of the Act is replaced by the following: (SAFETY FIRST)

(d) is or was previously prohibited by an order — made in the interests of the safety and security of any person — from communicating with an identified person or from being at a specified place or within a specified distance of that place, and **poses or may pose** a threat or risk to the safety and security of any person;

16 The Act is amended by adding the following after section 6: (SAFETY FIRST)

Protection orders

6.1 Subject to section 70.3 and the regulations, an individual is not eligible to hold a licence if **they are** subject to a protection order **or have been convicted of an offence in the commission of which violence was used, threatened or attempted against the person’s intimate partner or former intimate partner or a family member.**

27.1 Section 54(2) of the Act is amended by replacing the “.” by “; or” at the end of paragraph 52(2)b) and by adding the following after paragraph (b): (JUDICIAL INVOLVEMENT)

c) a provincial court judge, in the case of an individual who has previously been denied a licence or whose licence has previously been revoked or suspended by application of sections 6.1, 69.1, 70.1 or 110.1.

36 The Act is amended by adding the following after section 70:

Revocation — domestic **or family violence** (STRENGTHEN AND CLARIFY DOMESTIC VIOLENCE REVOCATION + SWIFT REMOVAL + INCLUDE FAMILY VIOLENCE)

70.1 If a chief firearms officer **has reasonable grounds to suspect** that an individual who holds a licence **may have** engaged in an act of domestic **or family violence** or stalking, the chief firearms officer must revoke the licence **within 24 hours.**

Definition (DEFINE FAMILY VIOLENCE)

70.1.1 For the purpose of section 70.1, domestic or family violence means any conduct, whether or not the conduct constitutes a criminal offence, by a family member towards another family member, including a conduct by and toward an intimate partner or ex-intimate partner, that is violent or threatening or that constitutes a pattern of coercive and

controlling behaviour or that causes that other family member, intimate partner or ex-intimate partner to fear for their own safety or for that of another person and includes

(a) physical abuse, including forced confinement but excluding the use of reasonable force to protect themselves or another person;

(b) sexual abuse;

(c) threats to kill or cause bodily harm to any person;

(d) harassment, including stalking;

(e) the failure to provide the necessities of life;

(f) psychological abuse;

(g) financial abuse;

(h) threats to kill or harm an animal or damage property; and

(i) the killing or harming of an animal or the damaging of property;

Revocation — protection order (REMOVE CHOSING METHOD OF DISPOSAL)

70.2 (1) If an individual becomes subject to a protection order, their licence is automatically revoked and they must, within the prescribed period, deliver to a peace officer or otherwise lawfully dispose of any firearm that they possess. Sections 91, 92 and 94 of the Criminal Code do not apply to the individual in relation to such a firearm during that period.

Notice (SWIFT REMOVAL)

(2) A chief firearms officer must give notice, in the prescribed manner, of a revocation referred to in subsection (1) to the individual and must specify in the notice the period referred to in that subsection. Except in exceptional circumstances involving practical impossibility, the prescribed period shall be 24 hours.

Conditional licence (REMOVE EMPLOYMENT EXEMPTION)

70.3 Subject to section 5, a chief firearms officer may, in the prescribed circumstances, issue a licence that is subject to the conditions that the chief firearms officer considers appropriate to an individual referred to in section 6.1, 70.1 or 70.2 if the individual establishes to the satisfaction of the chief firearms officer that they need a firearm to hunt or trap in order to sustain themselves or their family.

37 Subsections 72(4) to (6) of the Act are replaced by the following: (SWIFT REMOVAL + REMOVE CHOICE OF HOW TO DISPOSE OF GUNS)

Disposal of firearms, etc.

(4) A notice given under subsection (1) in respect of a licence must specify a reasonable period during which the applicant for or holder of the licence may deliver to a peace officer or a

firearms officer or a chief firearms officer ~~or otherwise lawfully dispose of~~ any firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition that the applicant for or holder of the licence possesses and during which sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm, prohibited weapon, restricted weapon or prohibited device or such prohibited ammunition. **Except in exceptional circumstances involving practical impossibility, the prescribed period shall be 24 hours.**

Disposal of firearms — registration certificate

(5) A notice given under subsection (1) in respect of a registration certificate for a prohibited firearm or a restricted firearm must specify a reasonable period during which the applicant for or holder of the registration certificate may deliver to a peace officer or a firearms officer or a chief firearms officer ~~or otherwise lawfully dispose of~~ the firearm to which the registration certificate relates and during which sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a prohibited firearm or restricted firearm. **Unless such notice period would place the individual in a position of practical impossibility, the prescribed period shall be 24 hours.**

Reference

(6) If the applicant for or holder of a licence refers the refusal to issue it or revocation of it to a provincial court judge under section 74, they **must still deliver any firearm that they possess to a peace officer within the period referred to in section 72(4).**

Order — return of firearm

(7) If the reference or appeal has been finally determined and if the decision of the chief firearms officer is infirmed, the judge **must,** if a firearm was delivered to a peace officer under subsection (6), order the return of the firearm to the applicant for or holder of the licence.

Conditions

~~**(8) When making an order under subsection (7), the judge may impose any conditions that they consider appropriate in the interests of the safety of the applicant for or holder of the licence or any other person, including**~~

~~**(a) the time within which and manner in which the firearm is to be returned;**~~

~~**(b) the manner in which the applicant or holder is to have access to the firearm during the period beginning with the return of the firearm and ending with its disposal; and**~~

~~**(c) the manner in which the firearm is to be disposed of.**~~

Effect

~~**(9) An order made under subsection (7) takes effect on**~~

~~(a) the day after the day on which the period for making an appeal has expired, if no appeal is made; or~~

~~(b) the day on which a final determination is made in respect of the appeal, if an appeal is made and the decision of the chief firearms officer is confirmed.~~

If decision confirmed

~~(10) If the appeal has been finally determined and the decision of the chief firearms officer is confirmed, the applicant for or holder of the licence must lawfully dispose of a firearm that was delivered to a peace officer under subsection (6) within 30 days after the day on which the firearm is returned to them. Sections 91, 92 and 94 of the Criminal Code do not apply to the applicant or holder in relation to such a firearm during that 30-day period.~~

41 Section 89 of the Act is renumbered as subsection 89(1) and is amended by adding the following: **(SWIFT REMOVAL)**

Protection order

(2) Any competent authority that makes, varies or revokes a protection order shall have a chief firearms officer informed **within 24 hours** of the protection order or its variation or revocation.

Regulations: Add the following definition to the regulations: **(COVERING ALL ORDERS)**

Protection order: includes a probation order, a judicial interim release order, a peace bond under sections 810, 810.02, 810.1 or 810.2 of the *Criminal Code*, and an order or injunction made under the relevant provincial, territorial, federal or First Nations legislation in the context of civil or family law proceedings, if such order, peace bond or injunction is made to protect the safety of one or more persons or prohibits the person subject to the order from:

- (a) **being in physical proximity to a specified person or following a specified person from place to place;**
- (b) **contacting or communicating with a specified person, either directly or indirectly;**
- (c) **attending at or being within a certain distance of a specified place or location;**
- (d) **engaging in harassing or threatening conduct directed at a specified person;**
- (e) **occupying a family home or a residence; or**
- (f) **engaging in family violence.**