

**City of Toronto:
City-Based Measures to
Address Gun Violence**

May 22, 2008



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1. Introduction

In accordance with the balanced approach to gun violence equally employing prevention and enforcement established through the City's 2004 Community Safety Plan, the City has undertaken significant investment in prevention programming and enforcement innovations through the "Making a Safe City Safer" initiative.

However, at national, provincial and local levels handguns continue to be a persistent threat to the safety and security of Canadians. Although the City is constrained by federal and provincial law from exercising direct regulatory control over handguns, there are a number of options available to the City to address handgun violence that build upon Toronto's existing approach of balanced preventative programming investment and innovative enforcement techniques.

This report provides an overview of the findings of the "City of Toronto: City-Based Measures to Address Gun Violence" Options Paper prepared by an interdivisional staff team tasked with examining the public health and safety threat of handgun violence and identifying options for further City action. By employing land use zoning bylaws, strengthening the City's ability to support existing innovative prevention programs, establishing clear City directives on appropriate uses of City facilities and engaging in an active national advocacy campaign on firearms issues, the City can maximize the opportunities it has to act within its jurisdictional authority to specifically reduce the availability of handguns. This approach is consistent with the City's balanced prevention and enforcement efforts focusing on making a safe city safer.

1.1 The Challenge of Firearms in Canadian Society

Dating back to the nation's early years, Canadian governments have traditionally sought to weigh the need for access to firearms for certain specific circumstances against the mortal threat firearms present to the community. In 1892, when the Government of Canada crafted the first national legislation governing firearms it made a definite distinction between the assessed mortal threat posed by a handgun in comparison to a rifle or shotgun. Erring on the side of caution when implementing the Canada's first national gun control legislation (the *Criminal Code of Canada, 1892*), the Government assessed handguns to be of sufficient mortal threat to warrant regulations that required handgun owners to have a permit to carry a handgun (except when the owner had cause to fear assault or injury). Under the same regulations, handgun vendors were required to keep records to whom guns were sold and it was made illegal to sell a handgun to anyone under 16 years of age.¹ Over a century later, Canadian governments have continued to enact legislation establishing strict parameters for the acquisition, use, storage, manufacture and import/export of firearms based on the assessed mortal threat firearms, and more particularly handguns, present to the safety of Canadians. As was the case with

¹ Department of Justice Canada "Federal Prosecution Service DESKBOOK: Part I – UNDERSTANDING CRIMINAL LAW IN CANADA, Chapter 1" <http://www.justice.gc.ca/eng/dept-min/pub/fps-sfp/fpd/ch01.html> Accessed on May 20, 2008

Canada's first firearms control legislation, handguns continue to be assessed as a significant mortal threat to Canadians requiring an elevated regulatory regime including, in some cases, outright prohibition.

2. The Impact of Firearms on Public Health and Safety

Toronto is a remarkably safe city compared to other large urban centres in North America. The combined prevention and enforcement efforts of the Government of Canada, the Government of Ontario, and the City of Toronto work to uphold this high degree of safety. Yet, at national, provincial and local levels handguns continue to be a persistent threat to the safety and security of Canadians.

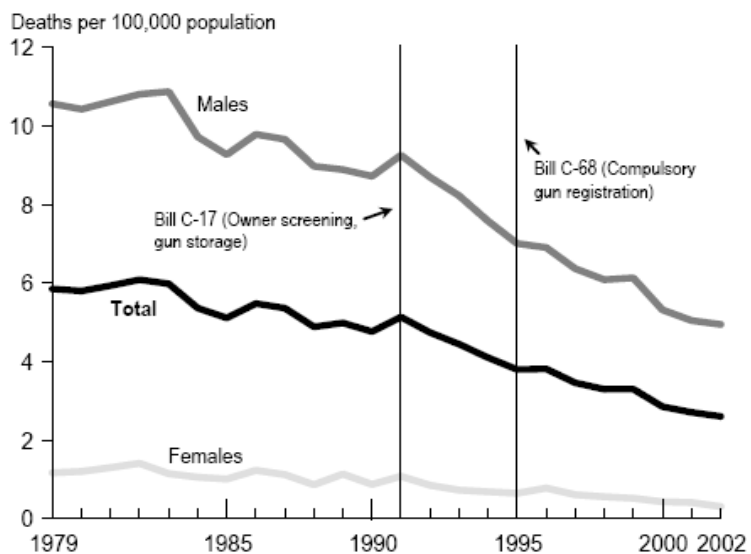
2.1 Firearm-Related Deaths

Canada

Canadian rates of firearm use to commit homicides have been in overall decline since the mid-1970s, a trend largely attributed to an 86% decrease in homicides involving rifles or shotguns between 1975 and 2006. However, over the same period of time handgun use remained comparatively stable – so much so that in 1991 handgun homicides surpassed rifle and shotgun homicides and by 2006 three-times as many firearm homicide victims were killed with a handgun than with a rifle or shotgun. Handguns now account for over half of all firearm homicides in Canada.²

Figure 1 - Rate of death (per 100,000) from injury involving firearm by sex, Canada, 1979 to 2002

In 2002, 816 Canadians died from firearms-related injuries, representing a rate of 2.6 deaths due to firearms per 100,000 population. When examined further, it is evident that in 2002 nationally, males experience a disproportionately higher rate of death due to firearm-related injuries than females (4.9 per 100,000 population compared to 0.3 per 100,000 population.) (See Figure 1) The



Data source: Canadian Mortality Database

² Dauvergne M and L De Socio. "Firearms and Violent Crime" Juristat-Statistics Canada-Catalogue no. 85-002

disproportionate impact of gun violence on Canadian males remains a persistent statistical theme, regardless of age group, and is mirrored in firearm-related emergency room visits and hospitalizations.³

Equally, Canadian youth also are disproportionately impacted by firearm-related deaths. In 2004, firearm injury caused 6% of all deaths among 15 to 24 year old males – a rate higher than that of the combined deaths from falls, fires and drownings, and greater than the number of 15 to 24 year old males who died from cancer.⁴ Canada ranks fifth among industrialized countries in the rate of firearm deaths among children under the age of 14 years.⁵

Canadians suffer significantly from firearm-related suicide deaths, recording a rate of 2.0 deaths per 100,000 population that was significantly higher than the rate for firearm-related homicide (0.4) or unintentional firearm-related injury resulting in death (0.1).⁶ Despite the general decline in domestic homicides with firearms between 1975 and 2006, a report from the Coroner of Ontario in 2002 confirmed that access to guns was one of the top five risk factors for domestic murder. The report found that the presence of a firearm in the home not only increases the risk of death but the number of victims, given that 50% of domestic murders end in suicide.⁷

Toronto

Firearm-related deaths remain a significant public health trend in Toronto, especially when compared to the rest of Ontario. Between 2000 and 2004, approximately 0.2% of all deaths in both Toronto and the rest of Ontario were as a result of firearm-related injury. In the same period approximately 50% of all firearm deaths due to assault in Ontario occurred in Toronto. Firearm injury deaths due to assault were the leading cause of firearm injury death for Toronto residents (67%), compared to intentional self-harm by firearm for the rest of Ontario (82%) between 2000 and 2004.⁸ (See Figure 2)

³ Wilkins, Kathryn. “Deaths Involving Firearms” Health Reports, Vol. 16, No. 4, June 2005-Statistics Canada

⁴ Statistics Canada, *Causes of Death*, Catalog 84 208 XWE, 2004

⁵ Centers for Disease Control and Prevention. Rates of homicide, suicide, and firearm-related death among children —

26 industrialized countries. *Morbidity and Mortality Weekly Report* 1997;46(5):101–5.

⁶ Wilkins, Kathryn. “Deaths Involving Firearms” Health Reports, Vol. 16, No. 4, June 2005-Statistics Canada

⁷ Coalition for Gun Control “*Reducing Domestic Homicide*”

<http://www.guncontrol.ca/English/Home/Works/Reducing.pdf> Accessed on: May 20, 2008

⁸ Ontario Mortality Data (CY 2000 – 2004), National Ambulatory Care Reporting System Data (CY 2003–2006) and Hospital Inpatient Data (CY2003 – 2006), Provincial Health Planning Database (PHPDB), version 17.08, February 2008, Knowledge Management and Reporting Branch, Ontario MOHLTC.

Figure 2: Firearm Injuries - Deaths, ER Visits and Hospitalization, Toronto, the Rest of Ontario and Ontario

	Toronto		Rest of Ontario		Ontario	
	Number	Percent	Number	Percent	Number	Percent
Deaths, 2000 to 2004* combined						
Unintentional	-	-	11	1.5	12	1.3
Intentional Self-harm	59	32.6	612	81.5	671	72.0
Assault	121	66.9	128	17.0	249	26.7
Total	181	100.0	751	100.0	932	100.0
ER Visits, 2003 to 2006* combined						
Unintentional	459	56.7	1447	77.0	1906	70.9
Intentional Self-harm	6	0.7	100	5.3	106	3.9
Assault	345	42.6	332	17.7	677	25.2
Total	810	100.0	1879	100.0	2689	100.0
Hospitalization, 2003 to 2006* combined						
Unintentional	118	32.1	222	47.7	340	40.8
Intentional Self-harm	5	1.4	73	15.7	78	9.4
Assault	245	66.6	170	36.6	415	49.8
Total	368	100.0	465	100.0	833	100.0

(-) indicates a count greater than 0 but less than 5 and thus must be suppressed.

* Calendar year.

Firearm injuries include unintentional, intentional self-harm and assault.

Source: Ontario Mortality Data (CY 2000 – 2004), National Ambulatory Care Reporting System Data (CY 2003-2006) and Hospital Inpatient Data (CY2003 – 2006), Provincial Health Planning Database (PHPDB), version 17.08, February 2008, Knowledge Management and Reporting Branch, Ontario MOHLTC.

Prepared by: Toronto Public Health, February, 2008.

Similarly to the national trend, the mortality rate among males was substantially higher than among females in both Toronto and the rest of Ontario between 2000 and 2004. However, the Ontario female firearm injury mortality rate for the period was more than twice as high as the rate for Toronto females. Firearm mortality data for the period also shows a similar, albeit disproportionately high rate of firearm injury mortality for males in Toronto and the rest of Ontario. Toronto males comprised the vast majority of deaths (95%), ER visits (90%) and hospitalizations (93%) due to firearm injury.⁹

Mirroring national trends, Toronto youth aged 15 to 29 years experienced the highest firearm injury mortality rate of all age brackets and also suffered a firearm injury mortality rate by assault more than five times higher than in the same age group in the rest of Ontario. These statistics led the RCMP to conclude in a 2006 Environmental Scan focusing on youth gangs and guns: “1) Urban areas are significantly more prone to violent gang activity involving guns; 2) In Toronto, more than 11% of all homicides in 2004 were “gang-related” (youth, street and organized crime); [and] 3) Most of the gun-related homicides occur in at-risk neighbourhoods such as the Jane-Finch area.”¹⁰

⁹ Ibid.

¹⁰ Royal Canadian Mounted Police “*Feature Focus 2006: Youth Gangs and Guns*” http://www.rcmp-grc.gc.ca/focus/youth_gun/toc_e.htm Accessed on: May 20, 2008

While the significant impact of firearms death on Toronto youth is of particular concern, public health data also indicates that Toronto seniors (age 65 and over) had the highest mortality rate (1.61 /100,000 persons) of any age group for firearm injury caused by intentional self-harm.

Death and hospitalization data demonstrate that intentional self-harm using firearms in Toronto is virtually an exclusive activity committed by males. Between 2000 and 2004, death and hospitalization data indicate only 1 female emergency room visit for intentional self-harm using firearms.¹¹

2.2 Firearm-related Hospitalizations and Emergency Room Visits

Canada

While firearm deaths often are the public face of the impact of firearms for many Canadians, equal attention should be given to the rates of firearm injuries and hospitalizations in Canada. Thanks in part to advances in medical technology and procedures, medical staff now have a greater chance of preventing the death of serious firearm injury victims. However, this is not to say these victims will make a full recovery and be able to resume their former lives. Many firearm injury victims are forced to live with painful conditions that have a serious impact on their own and their family's quality of life – a second firearm-related victimization that often receives little attention from the media or from society.

A Canadian study published in 2000 outlined a significant trend of note in the causes of firearm-related hospitalization – the prevalence of the unintentional (or 'accidental') firearm injury hospitalization. The study found that between 1997 and 1998, 295 (or 39%) of the 767 firearm-related hospitalizations recorded in Canada were classified as accidental injuries, with self-inflicted firearms injuries (202 or 26%) and firearm injuries inflicted by others (202 or 26%) comprising the majority of the remainder.¹² Although health providers have recorded a decrease in the number of unintentional firearm injury hospitalizations in recent years,¹³ it must be emphasized that the largest segment of firearm hospitalizations resulted from actions in which the handler of the weapon had no intention to inflict harm. As such, the principle determinant in the occurrence of a significant proportion of firearm-related hospitalizations is presence of a firearm.

¹¹ Ontario Mortality Data (CY 2000 – 2004), National Ambulatory Care Reporting System Data (CY 2003-2006) and Hospital Inpatient Data (CY2003 – 2006), Provincial Health Planning Database (PHPDB), version 17.08, February 2008, Knowledge Management and Reporting Branch, Ontario MOHLTC.

¹² Hung K. *Firearm statistics (updated tables)*. Table 17. Ottawa: Research and Statistics Division, Department of Justice; March 2000. Available: <http://www.cfc-cafc.gc.ca/pol-leg/res-eval/publications/updated-en.pdf>. Accessed on: May 20, 2008

¹³ Canadian Institute for Health Information. "National Trauma Cases." www.cihi.ca/http://secure.cihi.ca/cihiweb/dispPage.jsp?cw_page=statistics_topic_e. Accessed: May 12, 2008

Toronto

Based on hospitalization and emergency room visit data for the period of 2000 to 2004, Toronto accounted for over 50% of all firearm injuries due to assault in Ontario.¹⁴ Firearm injuries due to assault represented the leading cause of firearm injury hospitalization in Toronto, however unintentional firearm injuries was the most common cause of emergency room visits for both the city (57%) and the rest of the province (77%). Firearm injuries due to assault comprise the second leading cause (43%) of firearm-related injury visits to the emergency room in Toronto.¹⁵

Similar to the gender disparity experienced by Toronto males for firearm mortality, the rate of Toronto males hospitalized for firearm-related injuries was more than three times higher than males in the rest of Ontario between 2003 and 2006. Similar to firearm mortality trends, females in Toronto and the rest of Ontario had a much lower rate of admission to hospital due to firearm injuries than males between 2003 and 2006. Toronto males experienced an emergency room visitation rate 1.8 times higher than males in the rest of Ontario for firearms-related injuries, however this has in part been attributed to easy access to emergency departments in Toronto.¹⁶

Toronto youth age 15 to 29 years also had the highest emergency room visitation rate for firearm injuries, the majority of which were attributed to unintentional firearm injuries between 2003 and 2006. Toronto youth age 15 to 29 years experienced an emergency room visitation rate for firearm injuries due to assault four times higher than that of their counterparts in the rest of Ontario. The firearm injury hospitalization rate followed the same pattern as the ER visit rate, with youth age 15 to 29 years in both Toronto and the rest of Ontario having the highest hospitalization rates due to firearm-related injuries. Similar to emergency room visitations, the rate among Toronto youth age 15 to 29 years was almost five times higher than that of youth in the rest of Ontario between 2003 and 2006. Firearm injuries due to assault were the highest cause of firearm injury hospitalization for the youth age 15 to 29 years age group.¹⁷

2.3 Firearm-related Criminal Activity

Firearm-related criminal activity remains a significant source of firearm-related victimizations, hospitalizations and deaths in Canada and is often closely tied to other criminal activity such as organized crime, cross-border smuggling and illegal drug activity.

When looking at longer historical trends, the average annual gun homicide rate increased from an average of 1.0 per 100,000 population (between 1991 and 1996), to 1.2 per

¹⁴ Ontario Mortality Data (CY 2000 – 2004), National Ambulatory Care Reporting System Data (CY 2003-2006) and Hospital Inpatient Data (CY2003 – 2006), Provincial Health Planning Database (PHPDB), version 17.08, February 2008, Knowledge Management and Reporting Branch, Ontario MOHLTC.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

100,000 population (1996 to present) in Toronto. In 2006, handguns accounted for 86% of all firearm homicides in Toronto (a much higher proportion than equivalent national figures).

Canadian police services reported over 8,100 victims of violent gun crime (assault, robbery and homicide) In 2006, representing a rate of victimization of 27.5 per 100,000 population in Canada – or a victimization frequency of almost one person per hour.¹⁸ Handguns represented two-thirds of all firearms used.¹⁹ Toronto experienced the highest number of victims of firearm-related violent crimes in 2006 in Canada, as well as the highest proportion of violent crimes involving firearms; 1,993 people in the Toronto CMA were victims of a violent offence related to guns.

Among young people, the use of guns in violent crime is increasing. The rate of youth aged 12 to 17 accused of a firearm-related offence has risen in three of the past four years, increasing 32% since 2002. This is mirrored by the rate of youth accused of a firearm-related violent crime in Toronto (96.2 per 100,000 youth population) which was well above the national average (55.5 per 100,000 youth population) and higher than all Canadian Census Metropolitan Areas (CMAs) in 2006.²⁰

A major source of illegal firearms in Canada is theft from domestic sources.²¹ Domestically sourced illegal firearms are primarily obtained from residential and commercial break-and-enters. Members of organized crime are known to identify and target legitimate firearms owners, in particular those with large collections. The Canadian Police Information Centre (CPIC) keeps records of stolen or missing firearms since 1974. Currently, there are approximately 85,000 firearms recorded in the system, of which approximately 44,000 are classified as restricted firearms (i.e. handguns).

2.4 Canadian Estimates of Direct and Indirect Medical Costs due to Gunshot Wounds²²

In 1995, a study in the Canadian Medical Association Journal used data from Statistics Canada, and calculations based on American data on the number of survivors as a ratio of the number of firearm victims admitted to American hospitals, to estimate the economic costs of firearm injuries in Canada in 1991. The study estimated that the total medical cost associated with firearm-related injuries in 1991 (in 1993 Canadian dollars) was \$6.6

¹⁸ Dauvergne M and L De Socio. "Firearms and Violent Crime" Juristat-Statistics Canada-Catalogue no. 85-002

¹⁹ Unless otherwise cited, all references on this page are from Statistics Canada (2008), The Daily February 20, 2008 "Study: Firearms and violence Crime: 2006" Ottawa: Minister of Industry

²⁰ Statistics Canada (2008), The Daily February 20, 2008 "Study: Firearms and violence Crime: 2006" Ottawa: Minister of Industry

²¹ Criminal Intelligence Service Canada, *2007 Annual Report on Organized Crime in Canada*, www.cisc-scrs.gc.ca

²² Miller T. Costs associated with gunshot wounds in Canada in 1991. *Canadian Medical Association Journal* 1995;153 (9): 1261 - 1268

billion. The bulk of this cost was attributed to firearm fatalities (\$6.0 billion). Of this \$6.6 billion cost, almost \$4.5 billion was due to lost quality of life. (See Figures 3 and 4)

Figure 3 - Total Cost* of Gunshot Wounds in 1991 in Canada, by Cost Category and Outcome²³

Category	Cost (\$ million) by Outcome			
	Survived, treated in ER	Survived, admitted to hospital	Died	Total
Medical care	15.0	35.9	4.4	55.3
Mental health care	0.4	0.2	7.5	8.1
Public services	0.8	1.2	8.0	10.0
Loss in productivity	7.3	62.8	1485.1	1555.2
Funeral	0	0	4.3	4.3
Total monetary costs	23.5	100.1	1509.3	1632.9
Lost quality of life	202.4	284.5	4487.1	4974
Total	225.9	384.6	5996.4	6606.9

*Costs are in 1993 Canadian dollars.

Figure 4 - Total Cost* of Gunshot Wounds in Canada in 1991, by Type of Incident²⁴

Type of Incident	Cost (\$ million) by Outcome			
	Survived, treated in ER	Survived, admitted to hospital	Died	Total
Homicide or assault	11.7	64.6	1038.9	1115.2
Suicide or attempted suicide	2.2	82.7	4618.5	4703.4
Unintentional shooting	184.2	182.3	235.4	601.9
Shooting of unknown intent	26.8	49.1	49.9	125.8
Legal intervention	1.0	5.9	53.7	60.6
Total	225.9	384.6	5996.4	6606.9

*Costs are in 1993 Canadian dollars.

Although the study was limited by its reliance on extrapolations from American data, the study does underscore the impact of gun violence for all Canadians. There is both a quality of life cost to gun violence victims having to manage the after effects of a firearm injury, and there is a significant cost to be borne by all of society for providing the social, financial and medical supports required by gun violence victims.

2.5 Privately Owned Handguns Threaten Public Health and Safety – Canadian and International Findings

The public health threat of firearms, and most especially handguns, is not unique to Canada and has been well documented in international research literature. In comparing firearms data from four similar developed western countries that have taken quite different approaches to the regulation of firearms – Canada, the United States, England and Wales, and Australia – the difference in experiences is quite striking. Canada's firearms homicide rate is six times lower than the U.S. However, Canada's firearms

²³ Ibid.

²⁴ Ibid.

homicide rate is three times higher than Australia and six times higher than England and Wales.²⁵ Handguns are banned in Australia and the United Kingdom.

As noted in this report, in Canada handguns (restricted firearms) can be purchased by licensed target shooters and collectors and there is no limit to the number of handguns that can be purchased by licensed individuals. This raises a number of serious safety and security concerns.

- A handgun in the home becomes a crime weapon when a burglar steals it

As previously discussed in this report, a major source of illegal firearms in Canada is theft from domestic sources.²⁶ The Toronto Police Service has reported that up to 40% of firearms seized were legally purchased and stolen from Canadian owners through residential and commercial break-and-enters. Although a percentage of these break-and-enters are carried out by individual criminals, police services have noted that members of organized crime are known to identify and target legitimate firearms owners, in particular those with large collections.

The Canadian Police Information Centre (CPIC) keeps records of stolen or missing firearms since 1974. Currently, there are approximately 85,000 firearms recorded in the system, of which approximately 44,000 are classified as restricted firearms (i.e. handguns).

- Guns can be misused by their legitimate owner, even under the strongest regulations

The mere presence of a gun creates a mortal danger. A 2003 U.S. study showed that keeping a gun in the home increases the risk of somebody in the household dying, whether by homicide, suicide or accident, by 41%.²⁷

Violence in the home is often perpetrated by the threat of harm or shots fired with no physical wounds.

Yet, international studies have indicated that jurisdictions that severely restrict or outright ban handguns have seen safety and security improvements and lower levels of overall gun violence.

- In Australia, where they reformed gun laws in 1997, which removed 700,000 guns from homes, there has since been no mass shooting in the country; and the rate of decline in total firearm deaths has accelerated considerably since the introduction of

²⁵ Dauvergne and De Socio (2008) *Firearms and Violent Crime Statistics Canada* – Catalogue no. 85-002-XIE, Vol. 28, no. 2, Ottawa: Minister of Industry

²⁶ Criminal Intelligence Service Canada, *2007 Annual Report on Organized Crime in Canada*, www.cisc-scrs.gc.ca

²⁷ "The Ethics of Restrictive Licensing for Handguns: Comparing the United States and Canadian approaches to Handgun Regulation," Jon S. Vernick, Hodge J, Webster, D, *Journal of Law, Medicine and Ethics, Global Health Law, Ethics, and Policy*, Winter 2007 – pp 668-678

the new laws. The overall level of lethal firearm injury declined by 47% from 1991 to 2001 – from 629 firearms related deaths in 1991 to 333 in 2001.²⁸

- A recent U.K study noted “There were 59 fatal injuries involving firearms in 2006/07, up 18 per cent from 50 offences recorded in 2005/06, but still the second lowest total since 1998/99. Three of the fatalities involved the use of an air weapon. There were a further 507 firearm crimes that resulted in serious injury, down 15 per cent from 595 in 2005/06. Overall, 566 offences resulted in serious or fatal injury, down 12% or 79 crimes on 2005/06.”²⁹
- In the United States, where there has been a decline in the percentage of American households containing firearms, the rate of handgun suicide has dropped considerably, and by a larger margin, fewer children of gun owners are committing suicide.³⁰
- In the District of Columbia which has some of the most stringent gun laws in the U.S., compared to the 50 states, children and youth have virtually escaped the rate of youth suicide that afflicts the rest of the country.³¹
- U.S. regional and state-level studies, has shown a positive and statistically significant relationship between rates of American household gun ownership and homicide victimization for the entire population. They clearly state that areas where household firearm ownership rates were higher, a disproportionately large number of people died from homicide.³²

Based on the firearms data and experience of international jurisdictions, the strict regulation of firearms and firearm-related activities has demonstrable social and economic benefits. It is incumbent on all orders of government to take all measures necessary to ensure public health and safety are protected from the mortal threat handguns present.

2.6 Gun Control in Canada

The Government of Canada has jurisdiction over legislation that governs firearms, namely the *Criminal Code*, and the *Firearms Act*. The *Firearms Act* sets out

Firearm Categories

Non-restricted

- Rifles and shotguns

Restricted

- Most handguns
- Semi-automatics
- Short rifles and shotguns

Prohibited

- Small handguns
- Sawed off rifles/shotguns
- Full automatics

²⁸ “Australia’s 1996 gun law reforms”, S Chapman, P Alpers, K Agho, M Jones, *Inj. Prev.* 2006;12;365-372

²⁹ *Homicides, Firearm Offences and Intimate Violence 2006/07, 2nd edition, (Supplementary Volume 2 to Crime in England and Wales 2006/07)*, British Home Office

³⁰ “The association between changes in household firearm ownership rates of suicide in the United States”, 1981-2002, M Miller, D Azrael, L Hepburn, D Hemenway, SJ Lippman, *Inj. Prev.* 2006;12;178-182

³¹ “Safe at Home”, Violence Policy Centre, July 2005

³² “Rates of Household Firearm Ownership and Homicide Across U.S. Regions and States, 1988-1997”, Miller, Azrael, Hemenway, *American Journal of Public Health*, Vol 92, NO 12, December 2002

the rules for possessing a firearm, while the *Criminal Code* identifies the various firearms, weapons and devices regulated by the *Firearms Act*. Both the *Criminal Code* and the *Firearms Act* contain offences and penalties for illegal possession or misuse of a firearm. Firearms are classified under three broad categories (see sidebar). Generally speaking, handguns are classified as a restricted firearm.

All types of firearms can be legally possessed in Canada

Handguns can be acquired by anyone licensed to possess a restricted firearm, although only for specific purposes, including:

- to use in target practice or target shooting competitions;
- to form part of a collection;
- for use in connection with lawful profession or occupation; or
- to protect life.

Target shooters must provide proof that they practice or compete at an approved shooting club or range. However target shooters do not need to be affiliated with a federally regulated target range to obtain a license.

To be authorized to have restricted firearms as part of a collection, a collector must possess technical and historical knowledge of their collection, consent to occasional inspections, and comply with regulations dealing with safe storage, record-keeping and other matters related to restricted firearms.

Only in limited circumstances may an individual possess and/or acquire a restricted firearm for employment purposes or for protection of life.

The *Firearms Act* does not limit the number of restricted firearms (handguns) a licensed owner can purchase in Canada.

Canadians can also be licensed to acquire and/or possess a prohibited firearm to form part of a collection if the collector already has one in the same category of prohibited firearms registered in their name. In addition, anyone is allowed to possess certain prohibited firearms if they had one registered in their name when it became prohibited and a valid registration certificate for that type of prohibited firearm was upheld from December 1, 1998 onward. The *Firearms Act* refers to this as being “grandfathered”. This status allows one to possess and acquire prohibited firearms that are already registered in Canada, but not to bring a prohibited firearm into Canada as a new import.

According to the Canada Firearms Centre, there are 7,235,699 legally registered firearms in Canada, as of April 2008; including 686,029 restricted and prohibited weapons registered to licensed owners.³³ In Ontario there are approximately 215,000 registered handguns.

³³ Canadian Firearms Centre. “*Quick Facts about the Canadian Firearms Program*” http://www.cfc-cafc.gc.ca/media/program_statistics/default_e.asp Accessed on: May 20, 2008.

3. Responding to the Challenge – City of Toronto Programs and Initiatives

The challenge of firearm violence is a significant one for all Canadian municipalities, as municipalities are simultaneously the front line responders to firearm violence and the order of government with the greatest jurisdictional limitations on firearm-related issues. The City of Toronto has sought to respond to the challenge of firearm violence by developing an approach that gives equal emphasis to preventative programs that address the root causes of firearm violence as it does to police enforcement activities. This approach is reflected in a number of City programs and initiatives:

3.1 Neighbourhood Action

Derived from the City's 2004 Community Safety Plan, Neighbourhood Action is a targeted, place-based approach to community engagement and service delivery that emphasizes a coordinated approach to community development focused on establishing local structures of collaboration for residents, service providers, community funding organizations, orders of government and private sector partners. The work of Neighbourhood Action seeks to address many of the root causes of firearm violence in the City's 13 priority neighbourhoods through advancing youth engagement initiatives, youth employment, education and training initiatives, community and family support initiatives, youth justice initiatives and resident engagement initiatives. To do so, Neighbourhood Action relies on two principle structures of local collaboration – *Neighbourhood Action Teams (NATs)* and *Neighbourhood Action Partnerships (NAPs)*.

In each of the City's 13 priority neighbourhoods a NAT has been established comprised of relevant City divisions and agencies (e.g. City Planning, Toronto Public Health, the Toronto Public Library, Children's Services, Social Services, Parks, Forestry and Recreation, Toronto Police Service, Toronto Community Housing), supported by a Community Development Officer and led by a senior staff Director-Champion tasked with ensuring the local priorities identified by the NAT are translated and incorporated into the City's policy, operational and budget planning processes. The primary goal of the NAT is to achieve sustainable institutional change in the manner in which the City engages the neighbourhood by providing integrated service delivery at a neighbourhood level. NATs coordinate services, problem-solve, identify local priorities and opportunities and build community capacity at the local level, ultimately working to ensure that the City's resources are best employed to meet the community's priorities.

Building on the success of the NATs, the City has established NAPs in 11 of the 13 priority neighbourhoods. The NAP teams add to the NAT's core staff team by drawing in partners from across the service delivery spectrum of all orders of government, the School Boards, the Toronto Police Service, Toronto Community Housing, community agencies and local residents. NAPs seek to build sustainable community (neighbourhood-level) change through resident-engaged multi-sectoral neighbourhood-based decision-making, with the ultimate goal of achieving neighbourhood vitality and enhancing the community's capacity to thrive.

Working through the NAT/NAP structures of collaboration, the City continues to engage the marginalized groups that are often disproportionately impacted by firearms violence. Through the identification and facilitation of local priorities, the NATs/NAPs are working to increase opportunities for youth and address the social infrastructure and programming deficits that have historically been a contributing factor to increased firearm violence.

3.2 Partnership Opportunities Legacy Fund

In 2006 the Mayor committed to investing \$13M in each of the City's 13 priority neighbourhoods over four years for new social infrastructure (e.g. playgrounds, basketball courts, etc.). As an initial step towards meeting this objective, in 2007 the City allocated \$714K in capital funding for priority neighbourhood projects.

In 2008, the Partnership Opportunities Legacy (POL) Fund program was established to deliver the remaining capital investment. The POL Fund builds on the NAT/NAP collaborative structures to provide leveraged capital funding for NAT/NAP-identified priority projects. To be eligible for POL Fund investment, projects must:

- strengthen neighbourhood capacity and infrastructure support;
- engage residents, particularly youth;
- further the goals of the Neighbourhood Action teams and partnerships;
- facilitate new community partnerships or strengthen existing ones;
- be City asset-focused;
- be youth-focused;
- require one-time funding only;
- outline how resulting program and maintenance costs will be managed within existing City operating funds or independent of City funding; and
- be sustainable.

Between 2007 and 2008, the City is investing \$7.6M through the POL Fund and leveraging a further \$12.9M in partnership funding for facility upgrades, new youth spaces, library expansion, new recreation facilities and multi-purpose community space. By the end of 2008, the City will have achieved an investment of \$20.5M in social infrastructure capital projects in Toronto's priority neighbourhoods through the POL Fund model. The POL Fund's remaining \$5.4M will be allocated in 2009 and 2010.

The POL Fund provides NATs/NAPs with a mechanism to advance locally identified priorities through collaborative funding partnerships, allowing residents of neighbourhoods disproportionately affected by firearm violence to affect lasting change in their communities. The following are some examples of POL Fund initiatives:

- Lawrence Heights Priority Neighbourhood – Lighting and Splash Pad Upgrades
 - Lawrence Heights residents identified upgrades to the Lawrence Heights Community Centre's KaBoom! Playground and upgrades to the Toronto Community Housing Corporation Neptune facility's splash pad as two long-standing neighbourhood investment priorities

- \$178,500 was invested by the POL Fund in 2007 to complete the upgrades
 - Both facilities now serve as vibrant centres of community activity, improving community safety and cohesion
- Jamestown/Rexdale Priority Neighbourhood -- Community Hub
 - The Jamestown/Rexdale NAT/NAP identified the access to services and community space as neighbourhood priority
 - Combined funding of \$3.2 million from the Ontario Ministry of Health and Long-Term Care (\$1.2 million), the United Way of Greater Toronto (\$1.0 million) and the POL Fund (\$1.0 million) will fund the creation of a new community hub and satellite community health centre at the site of the former Father Henry Carr high school
- Steeles-L'Amoreaux Priority Neighbourhood - Child Care Centre and Community Space
 - Access to child care and community space was identified by the Steeles-L'Amoreaux NAT/NAP as a neighbourhood priority
 - Combined funding of \$3.2 million from Children's Services (\$2.0 million) and the POL Fund (\$1.2 million) will fund the creation of 66 new child care spaces and additional community programming space at Chester Le Public School
- Flemingdon Park-Victoria Village – Additional Youth Space
 - The Flemingdon Park-Victoria Village NAT/NAP identified a need for additional youth space as a neighbourhood priority
 - Combined funding of \$1.6 million from the Ministry of Citizenship and Immigration (\$500,000), the local Toronto Community Housing Corporation Tenant Council (\$100,000) and the POL Fund (\$1.0 million) will allow for substantial renovations to the O'Connor Community Centre to provide additional youth space

3.3 Intergovernmental Working Group on Gun Violence – Social Development Subcommittee

Formed in January 2006, the Intergovernmental Working Group on Gun Violence brings together the senior-most civil servants from all three orders of government to ensure close coordination between staff of all orders of government and a strong collaborative working relationship with police forces. Through the Intergovernmental Working Group's Social Development Subcommittee the City has been able to achieve agreement on four principle areas of investment for preventative initiatives to address firearm violence – youth education, employment and skills development; youth engagement; community and family supports; and youth justice issues.

Since 2006, the City has leveraged approximately \$64.4 million in partnered investments to reduce firearm violence in the City's priority neighbourhoods from all orders of government, including:

- Youth Employment, Education and Skills Development – \$15,018,636
- Youth Engagement – \$23,897,172
- Community and Family Supports – \$24,976,275
- Youth Justice Issues – \$493,827

It is estimated that the investments leveraged through the Social Development Subcommittee have benefited over 319,000 Toronto residents since the Subcommittee's work began in 2006.

3.4 Toronto Police Service Initiatives to Strengthen Community Safety

The Toronto Police Service has adopted a dual role approach to combating firearm violence, strengthening both its enforcement capabilities and expanding its community outreach and prevention programming efforts. In 2005, Chief William Blair recognized that the Toronto Police Service required a coordinated response to firearm violence to ensure community safety. The Toronto Police Service was restructured to respond to firearm violence, with a greater emphasis on the establishment and enhancement of effective partnerships with communities, governments and external law enforcement partners.

As part of this effort, the Toronto Police Service created the Toronto Anti-Violence Intervention Strategy (TAVIS) – a comprehensive, Service-wide, intelligence-led initiative intended to reduce violence, increase community safety and improve the quality of life for the members of the community, with a particular focus on neighbourhoods experiencing a high-risk for firearm violence. Under TAVIS, the Toronto Police Service increased its uniform presence in communities most affected by violent crime by 450 officers through accelerated hiring and redeployment.

The increase in available uniform officers allowed Chief Blair to dedicate officers to specific neighbourhoods in order to:

- build trust and strengthen community partnerships,
- aid in the understanding of the local environment,
- identify, prioritize and reduce crime and disorder, and
- assist in developing solutions to reduce crime and disorder.

The anti-violence strategy is both an offender- and location-based approach, operating on the principle that intelligence-led policing activities, in crime hotspots, have a deterrent effect on crime and disorder. In this way, through effective community mobilization, the strategy helps the transition of communities, from total dependence on police for their safety and security to a state of lesser dependence. The strategy focuses on high-risk persons in areas where analysis indicates chronic or an acute escalation in violence that jeopardizes community and officer safety. Continuous assessment of information and data provide the intelligence needed to deploy resources so criminals are not able to predict police responses and evade detection.

The Police Service also created TAVIS Teams (comprised of Rapid Response Teams, Specialized Operations and the Community Mobilization unit) to work with local Police Divisions and community stakeholders to develop localized strategies that focus on reducing violence and improving quality of life of Toronto residents within their communities. The Police Divisions dedicate officers to each neighbourhood for at least two years. These officers build trust by developing effective relationships between the Police Service and the communities, and are the principle source of intelligence from which enforcement and community mobilization strategies are developed.

Community Mobilization Unit

Members of the Community Mobilization Unit engage in community mobilization efforts by offering assistance and guidance to the divisions working with their communities to build strong partnerships with individuals, social agencies, city services and other government agencies. Community Mobilization Unit members, working with the divisional neighbourhood officers, TAVIS Response Teams and the local community stakeholders, identify and offer programs, contacts and resources that communities require, ensuring that opportunities and alternatives are available for high-risk youth.

Rapid Response Teams

The function of the TAVIS Rapid Response Teams is to support the divisions in a collaborative effort, working very closely with the Community Mobilization Unit and divisional community response officers, to enhance local anti-violence strategies to meet the TAVIS goal. As the name indicates, these teams also provide a rapid-response capability. Unit commanders can request the Teams' support for divisional efforts immediately following critical events. For example, after a shooting or other violent incident, unit commanders can request that a TAVIS response team attend to reassure the community that they are safe and to demonstrate that the police are poised to respond to any additional attempts at violence. In addition, one week each month, the rapid response teams deploy in all divisions keeping the criminals off balance and demonstrating to the community the Service's commitment to keep all communities safe.

Each team consists of 16 uniform constables and two sergeants. Five TAVIS Rapid Response Teams currently exist within the Toronto Police Service. The visible presence of uniform officers in neighbourhoods ensures support from the community and provides a visible deterrent to criminals.

TAVIS Specialized Operations

TAVIS Specialized Operations is comprised of the Gun and Gang Task Force, Toronto Drug Squad, Intelligence Services, and the Urban Organized Crime Squad. Specialized Operations supports the anti-violence strategy by providing the investigative and covert resources needed to disrupt and dismantle the criminal enterprises that breed violence in the distressed neighbourhoods.

Empowered Students Partnership

In addition to the anti-violence strategy, the Toronto Police Services is also actively engaged in the Empowered Students Partnership which assists students to plan, organize and execute year-long safe schools initiatives in their local schools and communities. Working with the Police, students are empowered to take the necessary steps or actions to solve problems specific to their school with the option of utilizing programs or guest speakers, available to them through the Police Coordinator at Community Programs, Youth Services. Empowered Students Partnerships are student led between the Toronto Police Service, the Canadian Safe School Network, ProAction Cops & Kids, the City of Toronto, The Toronto District School Board, the Toronto Catholic District School Board, le Conseil scolaire public de district du Centre-Sud-Ouest, and le Conseil scolaire de district catholique Centre-Sud.

The Empowered Student Partnership allows the Police to actively engage in youth-led preventative programming that strengthens the relationship between youth and the Police through constructive and engaging dialogue, while equipping youth with the tools they need to affect positive change in their communities.

Crisis Response

The Toronto Police Service works closely with the City's Community Crisis Response unit to help break the cycle of violence that often characterizes firearm violence in urban areas. In 2007, the City's Community Crisis Response unit engaged in more than 60 critical incidents by providing community crisis response supports including debriefs, community meetings, meetings with local youth, safety planning and community police meetings.

3.5 Youth Employment

The City recognizes that a significant determinant of the level of incidents of youth firearm violence is the availability of opportunities for meaningful employment for youth, especially in the City's priority neighbourhoods. Through its own hiring practices the City has sought to increase opportunities for youth employment, hiring a total of 2,556 youth in 2007 (including hiring 1,264 youth through Parks, Forestry and Recreation; 100 youth through the Toronto Transit Commission; 100 youth through the Toronto Police Service; and 77 youth through the Toronto Public Library.) Of the youth hired in 2007, 619 youth were hired from priority neighbourhoods.

Partnerships for Advancing Youth Employment

The Partnerships to Advance Youth Employment (PAYE) program is a joint initiative between the City of Toronto's Social Services Division and private employers to give youth from priority neighbourhoods direct and innovative opportunities for employment. PAYE is spearheaded by business leaders and includes a number of employers who have come forward with jobs for youth from Toronto's 13 priority neighbourhoods. Employers

are provided the opportunity to fill entry-level positions with pre-screened applicants that have the necessary training and skills, while at the same time the initiative supports the City's aim of providing opportunity to its young people.

In 2007, a PAYE pilot program was tested in the Lawrence Heights priority neighbourhood with support from 29 employers. As a result of the pilot program:

- One hundred youth received employment coaching and participated in employer-led workshops;
- 70 youth attended job interviews;
- 39 youth were offered employment; and
- two were awarded educational bursaries.

In 2008, PAYE will build on the success of the Lawrence Heights pilot project and host three Community Recruitment Events involving seven priority neighbourhoods.

3.6 Sustainable Livelihoods Pilot Project

The Sustainable Livelihoods pilot project was developed by Toronto Community Housing as a wrap-around program that provides a network of financial, social and personal supports to young people living in social housing over an 18-month period. Between 10 and 15 youth will be provided with training and the skills needed to map their own assets and develop plans for the future based on building their assets in five areas. At the end of the first six months, youth are placed in a job of the youth's own choosing. Wrap around supports continue for another year. The pilot project was developed by Toronto Community Housing and will be implemented with the help of numerous community partners.

3.7 ProTech Media Centre Public Interest Partnership

The City recognizes the importance of engaging all Toronto's resources in providing opportunities for youth in neighbourhoods experiencing a higher rate of firearm and youth violence. As such, the City encourages the development of innovative youth-focused public interest partnerships with the private sector. One of the City's most successful public interest partnerships is the Rexdale ProTech Media Centre, a City partnership with Microsoft Canada, Humber College, the Humber College Students' Federation, Toronto Community Housing and the YMCA of Greater Toronto.

The Rexdale ProTech Media Centre provides free access to state-of-the-art digital arts training to young people in the Jamestown/Rexdale priority neighbourhood. Since the Centre opened in July 2007, 382 youth and children aged 9 to 19 years have been served. To date, Microsoft Canada has committed \$274,000 to this City partnership. The City has recently expanded the ProTech partnership to include Renewed Computer Technology and is working with Microsoft Canada and its community partners to open three further ProTech Media Centres in priority neighbourhoods.

3.8 Agenda for Prosperity – One Toronto: Economic Opportunity and Inclusion

In January 2008, the Council approved the City of Toronto's economic development plan – *the Agenda for Prosperity*. Reflecting the City's commitment to building a Toronto that is both socially and economically inclusive, the *Agenda for Prosperity's* fourth pillar (*One Toronto: Economic Opportunity and Inclusion*) establishes an economic development plan that in part seeks to help address a number of the root causes of firearm violence – poverty, lack of opportunity or social mobility, low access to social infrastructure supports, access to education and skills training, and social and economic marginalization. Pillar four of the *Agenda for Prosperity* places a particular focus on Toronto's priority neighbourhoods, emphasizing the need to:

- accelerate youth skills development partnerships;
- improve youth access to secondary- and post-secondary education;
- work with other orders of government to improve labour force mobility;
- improve credential recognition and assessment programs;
- explore community micro loan opportunities;
- expand literacy programs;
- provide targeted youth employment programs/opportunities; and
- expand the number of community enterprise and employment hubs

In keeping with the priorities established in the *Agenda for Prosperity*, City staff are undertaking economic development initiatives that seek to expand the services and meaningful employment opportunities available to residents of Toronto's priority neighbourhoods. An example of one such development is the WoodbineLive! Entertainment Complex and Employment Hub in the Jamestown/Rexdale priority neighbourhood.

WoodbineLive! Entertainment Complex and Employment Hub

The WoodbineLive! Entertainment Complex and Employment Hub project currently in development is an upscale entertainment complex intended to complement the Woodbine Racetrack horse racing and slots facility and will be located on the largest swath of undeveloped, privately owned land in Toronto.

In keeping with the City's commitment to advancing social and economic inclusion, the City has negotiated the co-development of an employment hub to support the WoodbineLive! project and the estimated 8,000 permanent jobs the development will provide once completed. A local employment strategy will be developed in tandem with the employment hub to ensure that Jamestown/Rexdale residents will have access to pre-employment supports and skills development to better prepare them to accept employment once the WoodbineLive! complex opens.

As part of the WoodbineLive! economic revitalization in the Jamestown/Rexdale priority neighbourhood employment training, affordable housing, improved public transit access and increased child care and community space are under discussion. Through leveraged partnership investment and a commitment to the social and economic inclusion principles

of economic development established by the *Agenda for Prosperity*, the WoodbineLive! Entertainment Complex and Employment Hub advances the City's economic development, urban planning and community safety priorities in a neighbourhood disproportionately impacted by firearm violence.

3.9 Neighbourhood Revitalization

In one of the City's most visible efforts to, in part, address the root causes of violence and marginalization in Toronto neighbourhoods disproportionately impacted by firearm violence, the City and Toronto Community Housing are undertaking neighbourhood revitalization initiatives in communities where the current social housing asset is in poor condition. Recognizing that violence and marginalization can be significantly impacted by a neighbourhood's physical, social, economic and environmental circumstances, the City's neighbourhood revitalization goal is to create balanced neighbourhoods that integrate into the larger city fabric through a mix of incomes, tenures and land uses. Working in partnership with all three orders of government, the private sector and neighbourhood residents, the City employs an approach to neighbourhood revitalization that balances the physical, social, economic and environmental needs and priorities of a neighbourhood to ensure a vibrant, liveable community.

The City's first large-scale revitalization effort in the Regent Park will transform a neighbourhood that has been significantly impacted by poverty, marginalization and firearm violence. Encompassing an area in excess of 70 acres of land in downtown Toronto, the Regent Park revitalization initiative will occur over a 12 year period in six phases at a total estimated cost of \$560 million to be borne primarily by Toronto Community Housing and all three orders of government. Although early in its implementation, the Regent Park revitalization initiative has already begun to function as the catalyst for new private sector economic development investment in the neighbourhood (e.g. a bank, grocery store, private sector housing development), accompanied by public sector community infrastructure investment funded by all three orders of government (e.g. schools, child care, affordable housing).

The City is currently also in the initial planning stages of the Lawrence Heights neighbourhood revitalization initiative, the second of an envisioned 13 neighbourhood revitalizations in the City's priority neighbourhoods.

3.10 Toronto Public Library Youth Outreach Programming in Priority Neighbourhoods

With one of the largest and most active library systems in North America, the City of Toronto recognizes the important role libraries play in engaging residents and maintaining strong, vibrant communities. Supporting the City's strategy to combat firearm violence through preventative initiatives, the Toronto Public Library provides a great variety of services and programs for youth designed to engage youth in their community, help them develop confidence and build skills such as public speaking, literacy and cross cultural awareness while also building leadership skills.

During the year 2007 there were a total of 1,888 programs presented to youth with an attendance of 32,718 across TPL branches. Programs range from job fairs to graffiti arts and from creative writing and homework help to film making. Youth also make heavy use of collections, study spaces and computers in library branches across the city every day of the week. TPL has also experienced a high level of youth engagement through its program to encourage youth to volunteer in the libraries, and can lead to employment opportunities. The number of youth volunteers at TPL has grown from 714 in 2004 to 2,025 in 2007.

The TPL also reaches out to youth through its Youth Advisory Group (YAG) program. The YAG program has resulted in TPL branches becoming more responsive to local community needs while simultaneously encouraging youth to take ownership of their communities. The YAG program has also served as a catalyst for the creation of community conflict resolution resources and peace circles in some neighbourhoods. These efforts are complemented by TPL's Leading to Reading program, which, in keeping with the City's emphasis on youth skills development and positive youth engagement in their communities, pairs older youth with young children to assist them with their reading skills and homework.

3.11 Summary

In responding to the challenge of firearm violence in Toronto, the City has undertaken a broad spectrum of proactive preventative programming and initiatives to address both the immediate and root causes of firearm violence. These efforts seek to advance youth engagement, provide youth with greater access to education, skills training and employment opportunities, provide greater social and family supports in neighbourhoods with social infrastructure deficits, and build stronger, more vibrant communities through local structures of integrated collaborative community development and expanded community capacity building. This work is both time- and resource-intensive, requiring the City's long-term commitment to make sustainable the successes experienced to date in the priority neighbourhoods. The City's efforts are both necessary and complementary to the strong work of the Toronto Police Service to combat firearms violence through innovative policing initiatives that blend enforcement actions with community engagement and mobilization.

4. Responding to the Challenge – Potential Options for Further City Action

When seeking to address the challenge of gun violence, the jurisdiction of Canadian municipalities over firearms regulations is limited. The following options for Council consideration are based upon staff's review of federal, provincial and municipal legislation governing firearms, legislation establishing the limits of City of Toronto's authority and policy areas within the City's jurisdiction. Where feasible, staff has provided recommendations for potential City action for Council's consideration.

4.1 Land Use Restrictions

Recommendation:

- 1. The Chief Planner and Executive Director, in consultation with the City Solicitor, prepare a zoning by-law to restrict uses permitting the discharge of guns, including firing ranges and gun clubs, to establishments operated by a police service of the City or the Provincial or Federal Government and establishments operated by the Department of National Defence, and restrict and/or prohibit establishments that manufacture, assemble, warehouse and/or distribute guns and that the by-law be brought forward to a public meeting at the September 10, 2008 meeting of the Planning and Growth Management Committee.**
- 2. Notice for the public meeting under the Planning Act be given according to the regulations under the Planning Act.**

The City's land use planning strategy is governed by the Official Plan. The Official Plan contains objectives and policies that manage primarily the physical change while taking into account the effects on the social, economic and natural environment of the City. The intent of the Official Plan is stated succinctly in the first chapter:

The vision of the Plan is about creating an attractive and safe city that evokes pride, passion and a sense of belonging - a city where people of all ages and abilities can enjoy a good quality of life.

While the Official Plan can be implemented in many different ways, zoning bylaw regulations are most often used. The Planning Act allows Council to pass zoning bylaws that may restrict the use of land and restrict the erection, location and use of buildings within the City. The challenge with zoning bylaws is translating what might be meant by the vision of "attractive and safe" into regulations governing the use of land and the erection of buildings.

The violence associated with the proliferation of gun use, especially handguns, is threatening the vision of a safe city. The role of land use restrictions in dealing with this issue is limited but nonetheless should be considered for consistency sake.

The two most likely areas in which zoning can be best used with respect this issue is in restricting the locations of gun manufacturing and restricting locations for the use and/or discharging of guns, that is, firing ranges. Under the current zoning bylaws, gun manufacturing or firing ranges would be permitted as part of a more generalized description of other uses such as a 'general manufacturing plant' or a 'recreation club.

In the case of a firing range, if it is best to prohibit their use, then consideration should be given to ensuring that a firing range owned by a law enforcement agency and used by the

agency exclusively for training purposes, is exempt. In the case of gun manufacturing, similar and related uses such as assembly and warehousing should also be restricted.

Amending the City's zoning in this respect is a challenge as there are 43 different zoning bylaws. To amend all these bylaws is time consuming and labour intensive. Since these uses are not currently defined or regulated by the existing bylaws, it is possible to pass a single zoning bylaw for the entire City whereby these might be restricted without the need to amend the existing bylaws. As a result, it is being recommended that a single by-law approach include the following:

- Restrict uses permitting the discharge of guns, including firing ranges and gun clubs, to establishments operated by a police service of the City or the Provincial or Federal Government, and;
- Restrict and/or prohibit establishments that manufacture, assemble, warehouse and/or distribute guns.

Any amendments to a zoning bylaw would apply only so as to restrict the establishment of new firearm related uses, and would not render existing firearm related uses illegal. Any existing firearm related use that exists legally on the date the zoning by-law amendment comes into force would be permitted to continue to operate as a legal non-conforming use (Section 34(9) of the *Planning Act*) until the property in question changes to a different use, or the use is discontinued.

4.2 City Regulation of Firearms and Related Matters

Recommendation:

- 3. The City of Toronto cancel the permit to Scarborough Rifle Club with respect to its use of the rifle range at Don Montgomery Community Recreation Centre and the General Manager, Parks Forestry and Recreation or designate be authorized to give notice of such cancellation.**
- 4. The City of Toronto terminate the lease to the CNRA Gun Club with respect to its use of a firing range at Union Station and the Chief Corporate Officer or designate be authorized to give notice of such termination.**
- 5. Council direct the City Manager to add "shooting ranges", "gun clubs" and the promotion of firearms use, in general, to the list of unacceptable uses of City facilities for permit or lease, except for permits or leases for use by a police service of the City, provincial or federal governments or the Chief Firearms Officer.**

Federal Jurisdiction under Criminal Law

Under the Constitution there is a division of powers between the federal and provincial orders of government. Firearms are regulated by Parliament under the federal criminal law power, which is an exclusive power of the federal government. A province and therefore a municipality does not have jurisdiction over criminal law.

Parliament regulates firearms under the *Criminal Code* and the federal *Firearms Act* (commonly referred to as the gun control law, to require the holders of all firearms to obtain licences and register their guns). The Supreme Court of Canada concluded that the *Firearms Act* is a valid exercise of Parliament's constitutional jurisdiction over criminal law in the *Reference re Firearms Act (Can)* case in 2000 as follows:

“We conclude that the gun control law comes within Parliament's jurisdiction over criminal law. The law in “pith and substance” is directed to enhancing public safety by controlling access to firearms through prohibitions and penalties. This brings it under the federal criminal law power. While the law has regulatory aspects, they are secondary to its primary criminal law purpose. The intrusion of the law into the provincial jurisdiction over property and civil rights is not so excessive as to upset the balance of federalism.”

Section 4 of the *Firearms Act* sets out the purpose of the Act. It authorizes the possession, sale, manufacture, transfer and importation of firearms in circumstances that would otherwise constitute an offence under the *Criminal Code*. (See Appendices III and IV).

The subject matter of regulation under the Act is comprehensive. For example, the legislation covers shooting clubs and ranges; regulations may be made regulating the establishment and operation of clubs and shooting ranges, the activities carried on and the keeping and destruction of records. It also covers gun collectors; regulations may be made regulating the establishment and maintenance of gun collections and their acquisition and disposal.

The federal Canadian Firearms Centre (“CAFC”) oversees the administration of the *Firearms Act* and the Canadian Firearms Program. On its web site, <http://www.cfc-cafc.gc.ca>, the Centre describes its purpose and the main purpose of the *Firearms Act* as follows:

“The Canada Firearms Centre (CFC)* was created by an order-in-council in 2003 to oversee the administration of the *Firearms Act* and the Canadian Firearms Program (CFP). The *Firearms Act* and its related regulations govern the possession, transport, use and storage of firearms in Canada. The objective of the CFP is to help reduce firearms-related death, injury and crime and to promote public safety through universal licensing of firearms owners.” * *now CAFC*

“The main purpose of the *Firearms Act* and its supporting regulations is to keep firearms out of the hands of people who are likely to be a danger to themselves or

to others. The *Criminal Code* and its supporting regulations define a firearm for the purposes of the *Firearms Act*, and set out penalties for the illegal possession and misuse of a firearm.”

The Commissioner of Firearms heads the CAFC. The Commissioner reports directly to the Minister of Public Safety Canada and oversees operations of the Canadian Firearms Program. The Registrar of Firearms is responsible for the decision-making and administrative work related to registration certificates, authorizations to export and authorizations to import. In addition, the Registrar maintains and operates the Canadian Firearms Registry, which houses data related to licensed firearms owners and to the registration of all firearms in Canada.

Delegation to Ontario Chief Firearms Officer:

Under the Canadian Firearms Program, the Province of Ontario has acted under delegated authority that permits the provincial minister, (now the Minister of Community Safety and Correctional Services) to directly appoint a “provincial” Chief Firearms Officer (currently an officer seconded from the Ontario Provincial Police) and to delegate certain powers to that official. Other provinces and territories, for example Alberta, have left it to the federal Minister of Public Safety Canada to appoint a “federal” Chief Firearms Officer to administer the Program in that province or territory. The Ontario provincial minister or the Chief Firearms Officer has also designated "firearms officers", usually members of the Police for the purpose of carrying out the responsibilities set out below.

Chief Firearms Officers are responsible for the decision-making and administrative work related to licences, authorizations to transport and authorizations to carry, transfers of firearms by individuals and businesses, and gun show sponsorship approvals within the criteria and regulations set by the *Firearms Act*. This involves determining an applicant's eligibility and either issuing, refusing to issue, renewing or revoking the licence, authorization to transport, carry, transfer or sponsor. It also involves setting conditions on these documents. The Chief Firearms Officers also designate instructors for the Canadian Firearms Safety Course and Canadian Restricted Firearms Safety Course.

Provincial jurisdiction

The Provincial governments may still regulate the property and civil rights aspects of firearms matters. For example, Ontario has enacted legislation that supplements the firearms restrictions in the *Criminal Code* and *Firearms Act*, by, among other matters, regulating or prohibiting the sale of ammunition, deactivated firearms and imitation firearms to individuals under 18 years of age, under the *Ammunition Regulation Act, 1994* and the *Imitation Firearms Regulation Act, 2000*. There is also the *Mandatory Gunshot Wounds Reporting Act, 2005*.

Other examples are hunting legislation (for example, the *Fish and Wildlife Conservation Act, 1997*) and sections 310 and 311.1 of the *Education Act*, where possession of a firearm results in the mandatory suspension of a student and an investigation by the

school principal to determine whether to recommend to the board of education that the pupil be expelled.

In 2007 Quebec enacted Bill 9, (2007, c. 30) “An Act to protect persons with regard to activities involving firearms and amending the Act respecting safety in sports.”, also known as Anastasia's Law. The provisions of this Act are to come into force on or before September 1, 2008 as specified by the Government.

The Quebec Act prohibits the possession of firearms in the buildings or grounds of certain designated institutions (e.g., childcare facilities, educational institutions and conveyances used for public transportation) and includes special search and seizure powers. It also requires shooting clubs and ranges to have a provincial licence and imposes requirements respecting compliance with safety regulations, and a register of users' and members' facilities usage. Persons wishing to target shoot must be a member of a shooting club, meet the conditions for continued membership and obtain an attestation of competency in the safe use of firearms. Certain persons (e.g., education institutions and shooting club staff) must report to police any behaviour indicating that an individual may endanger the safety of the individual or another person by the use of a firearm.

The Quebec Act appears to both complement and supplement the existing delegated powers to provincial ministers and Chief Firearms Officers under the *Firearms Act* and the province of Ontario may wish to consider enacting similar legislation.

Municipal jurisdiction

While a municipality, as with the Province, has no jurisdiction over criminal law matters, it may still regulate the property and civil rights aspects of firearms matters to the extent to which that power is delegated to the municipality by the province.

For example, under section 119 of the *Municipal Act, 2001* (as previously applicable to Toronto) local municipalities may regulate the discharge of weapons as follows:

Discharge of weapons

119. Without limiting sections 9, 10 and 11, a local municipality may, for the purpose of public safety, prohibit or regulate the discharge of guns or other firearms, air-guns, spring-guns, cross-bows, long-bows or any other weapon. 2001, c. 25, s. 119; 2006, c. 32, Sched. A, s. 60.

All of the former area municipalities of the City of Toronto had enacted by-laws under the predecessor to this section. Such by-laws have traditionally prohibited the discharge of weapons (as described in section 119) subject to limited exemptions, for example, public ceremonial events or at a shooting range as approved by the provincial minister.

The *City of Toronto Act, 2006* (COTA) gives the City broad powers with respect to the listed matters in section 8. The relevant listed matters are:

- Economic, social and environmental well-being of the City
- Health, safety and well-being of persons
- Protection of persons and property, including consumer protection
- Business licensing

The powers granted by section 8 are bolstered by the interpretation sections of COTA as well as the deference given to municipal decision-making by recent cases such as the 2005 *Croplife* (Toronto pesticides by-law) case.

Nevertheless the broad powers conferred by the listed matters are restricted by other provisions of COTA and judicial interpretation on the scope of these powers, which in the proposed regulation of firearms matters, includes the following:

- (1) Any proposed regulation must have a municipal purpose.

In *Croplife*, the Ontario Court of Appeal upheld Toronto's pesticide by-law on the basis that the by-law was aimed primarily at the matters of health, safety, and well-being of the City of Toronto's inhabitants. It relied on the Supreme Court of Canada case of *Spraytech v. Hudson* to the effect that municipal powers, including general welfare powers, are to be interpreted broadly and generously within their context and statutory limits, to achieve the legitimate interests of the municipality and its inhabitants.

However, the court did note the caution expressed by Mr. Justice Lebel in *Spraytech* in respect of such broad powers as follows:

“Nevertheless, such a provision cannot be construed as an open and unlimited grant of provincial powers. It is not enough that a particular issue has become a pressing concern in the opinion of a local community. This concern must relate to problems that engage the community as a local entity, not a member of the broader polity. It must be closely related to the immediate interests of the community within the territorial limits defined by the legislature in a matter where local governments may usefully intervene. In *Shell Canada Products Ltd. v. Vancouver (City)*, [1994] 1 S.C.R. 231, the Court emphasized the local ambit of such power. It does not allow local governments and communities to exercise powers in questions that lie outside the traditional area of municipal interests, even if municipal powers should be interpreted broadly and generously.”

Mr Justice Lebel in *Spraytech* went on to indicate:

“In the present case, the subject matter of the by-law lies within the ambit of normal local government activities. It concerns the use and protection of the local environment within the community. The regulation targets problems of use of land and property, and addresses

neighbourhood concerns that have always been within the realm of local government activity.”

Accordingly, for any municipal “gun” regulation, there would have to be an evidentiary basis to show an appropriate municipal purpose and that any proposed regulation is closely related to the immediate interests of the community within the City’s territorial limits in a matter where the City may usefully intervene. This is particularly the case where the proposed regulation may on its face appear to be an attempt to enact criminal law (e.g., if the by-law sought to apply new restrictions on gun collectors or gun clubs which are already subject to detailed regulations under the *Firearms Act*) and where such regulations are outside the traditional realm of local government activity.

- (2) Under section 11 of COTA, the proposed regulation must not conflict with a provincial or federal Act or regulation, which conflict includes frustrating the purpose of the Act or regulation.

There are two tests to determine whether a municipal by-law conflicts with other legislation. First, a conflict will exist if a person cannot simultaneously comply with both provisions (impossibility of dual compliance test). This is a high standard. For example, in *Croplife*, the court accepted that there can be a tri-level regulatory scheme where each level of government regulated different aspects of pesticides. More recently, two recent 2007 Supreme Court of Canada cases, *Canadian Western Bank v. Alberta* and *British Columbia (Attorney General) v. Lafarge Canada Inc.*, have reflected the view that a court should favour, where possible, the ordinary operation of statutes enacted by different orders of government. This means that, where possible, statutes dealing with different aspects of the same subject matter should be interpreted so as to avoid conflict.

More importantly, the second test relates to whether a municipal by-law would frustrate or displace the legislative purpose of provincial or federal legislation. Given the broad purpose of the *Firearms Act* and the Canadian Firearms Program, namely “...to help reduce firearms-related death, injury and crime and to promote public safety through universal licensing of firearms owners”, it is difficult to conceive of municipal regulation in this area where there wouldn’t be a conflict (frustration of legislative intent) contrary to section 11 of COTA.

- (a) Licensing and frustration of purpose example

By way of example, COTA has both general and, in the case of businesses, specific licensing powers. As noted above, the *Firearms Act* is a very comprehensive piece of legislation that has regulatory aspects that intrude into the provincial jurisdiction over property and civil rights. This Act includes detailed “licensing” type powers related to businesses (e.g., the manufacture, sale or transport of firearms or ammunition) and activities (e.g., target shooters, shooting ranges, gun clubs, and gun collectors). This fact makes it extremely difficult for the City to prove, even with a municipal purpose, that its attempt to licence a business (for example, that sells firearms or ammunition) or to licence an activity (for example, gun collection) would not frustrate the purposes of the

Firearms Act. In addition, COTA specifically prohibits the City from using its business licensing powers in the case of a manufacturing business, except to the extent it sells its products or raw materials by retail.

(3) Toronto does not have effective enforcement remedies in this area

Toronto does not have the wide ambit of enforcement remedies available to the federal or provincial governments to deal with firearms matters. COTA contains specific enforcement provisions for contravention of by-laws (e.g., creation of offences subject to fines; powers to restrain, to issue discontinuance and work orders and to take remediation action), which do not include any general power to seize property. The federal or provincial legislation dealing with firearms matters rely on the power of search, seizure or forfeiture to provide for effective sanctions. Examples of these types of powers are Ontario Bill 56 which provides for impounding of vehicles where illegal guns are found and section 111 of the Criminal Code which permits an application for a preemptive prohibition order by certain officials.

An order under section 111 of the Criminal Code is “preemptive” as no crime has been committed that would result in an order prohibiting possession of firearms, ammunition or similar items. The Chief Firearms Officer, for example, may make an application for a section 111 order if the officer believes on reasonable grounds that it is not desirable in the interests of the safety of the person against whom the order is sought or of any other person that the person against whom the order is sought should possess a firearm.

Conclusion:

The evidence provided to date is not sufficient to indicate what legislative steps could be taken from a municipal purpose perspective in terms of a regulatory by-law, particularly in light of the broad subject matter of the *Firearms Act*.

However, the City can deal with its property and assets in a way to reflect the community’s views on guns as reflected in the recommendations above, which prohibit the use of City property for shooting ranges, gun clubs and the promotion of firearms use in general.

The statistics obtained to date which indicate a disproportionate effect of gun violence on youth provide an appropriate basis and municipal purpose in undertaking the types of pro-active anti-violence programs aimed at youth.

Litigation

The possibility of commencing litigation against American gun manufacturers and distributors for their alleged role in the proliferation of illegal weapons in Toronto and the nuisance which may have resulted has been generally considered. Such litigation presents significant procedural hurdles. These include the significant question as to whether the litigation should be commenced in Toronto, where the damages have

occurred, or in the United States, where the gun manufacturers and distributors are located, and where the negligence is alleged to have occurred. Another significant procedural challenge is the availability of American laws which may be used by gun manufacturers to stop lawsuits seeking damages for the illegal use of guns sold by them.

In addition, the common law in Canada has established that municipalities and private individuals cannot commence an action for public nuisance without establishing that they have suffered "special damages". Special damages are damages which are substantial and beyond what are suffered by the rest of the public and must be different in character and distinct from an injury to the public at large. However, a municipality or an individual can join in a lawsuit where the Attorney General has commenced a proceeding seeking relief for a public nuisance where it is alleged that Ontario has suffered specific damages as a result of the public nuisance.

4.3 City of Toronto Act Powers of Taxation

Recommendation:

No recommendation

The City of Toronto is afforded with specific news powers of taxation under Part X of the City of Toronto Act (COTA), subject to the exclusions and limitations stipulated by COTA. Any attempt by the City of Toronto to enact taxation on firearm or ammunition sales through COTA as a disincentive to firearm possession would have to comply with the following limitations in particular:

- COTA stipulates taxation must be direct taxation in accordance with the extent of Provincial jurisdiction over taxation under the Constitution; and
- COTA stipulates that the City cannot institute a tax on purchase transactions.

As such, a tax on the purchase of firearms or ammunition would require an amendment to COTA to specifically permit such a sales tax and comply with the legislative restriction requiring direct taxation (i.e. taxation that applies only to the taxpayer and cannot be passed on to a secondary consumer.)

If the City of Toronto were able to overcome this legislative obstacle, a number of logistical obstacles to implementing such a tax remain. Implementing a sales tax on firearms and/or ammunition would require the City to resolve how to overcome the diminished effect of such a tax for firearms and ammunition sold outside of the borders of Toronto. When coupled with a relatively low number of firearms and ammunition vendors in Toronto, it is also most likely that a sales tax on firearms and/or ammunition would provide low volumes of collection and revenues while exerting a high cost of collection and compliance enforcement for the City with little impact on retailers or purchasers.

It is the opinion of staff that taxation of firearm and/or ammunition sales as a disincentive to firearm possession is not viable due to the legislative limitations imposed by the Constitution of Canada and COTA, and the logistical obstacles the City would be required to overcome to effectively implement such taxation.

4.4 Firearm Violence and Injury Monitoring

Recommendation:

6. The Deputy City Manager, Cluster A develop a comprehensive system to track the impacts and incidents of firearm violence and injury in Toronto on an ongoing basis, as part of the City's Community Safety Plan.

While the City of Toronto currently employs several Police and public health system monitoring tools to track particular elements of gun violence and injury in Toronto, there still exist many gaps in the City's ability to gauge the incidence and impact of gun violence in Toronto on an ongoing basis due to separate monitoring and tracking systems. As a result, the City's ability to respond to emerging criminal, social, economic and public health trends on an operational and policy development basis is currently delayed.

4.5 Intergovernmental Actions

The City of Toronto has engaged a "Making a Safe City Safer" agenda that commits to improving the quality of safety and security across Toronto. This initiative, spearheaded by Mayor Miller, coordinates essential social programs that provide a basis upon which other social and economic initiatives can be implemented. Upholding the public health and safety of Toronto households, communities, businesses and public spaces is a fundamental objective and core of the City of Toronto strategy.

The continued existence of gun violence in Toronto serves as a reminder that the roots of violence are complex; that issues cut across socio-economic factors and intervention requires a comprehensive approach. The City of Toronto is limited by its political jurisdiction, legislative authority, and capacity to address the national and international factors that contribute to gun violence. Despite the collective prevention and enforcement activity of the federal, provincial and municipal governments, there remain a number of unaddressed concerns that require government intervention. Further participation from all orders of government, especially the federal government, will be needed to support a comprehensive approach to gun violence in Toronto.

The socio-economic drivers cited in section two of this paper contribute to these present conditions:

- Privately owned handguns threaten public health and safety
- Illicit handguns evade anti-smuggling security at the Canada-U.S. border
- Canada's proximity to the U.S. gun industry presents unique security and enforcement challenges

- International activity on gun violence provides a means to develop policy options and build political support

The City's continued advocacy for a national ban on handgun possession (as directed by Council on April 28, 2008) will, in part, assist in addressing some of these conditions. The remainder of this section proposes options to build on the success of current interjurisdictional prevention and enforcement programs, and to deepen and extend government intervention.

Privately Owned Handguns Threaten Public Health and Safety

<p>Recommendation:</p>

<p><i>No recommendation</i></p>

As noted in section 2.5, Toronto is a remarkably safe city compared to other large urban centres in North America. Still, a number of factors pressure public health and safety programs and raise questions for stronger federal legislation relating to gun control. These factors include:

- Canada's firearms homicide rate is six times lower than the U.S.; but three times higher than Australia and six times higher than England and Wales
- Jurisdictions that severely restrict or outright ban handguns have seen safety and security improvements and lower levels of overall gun violence
- Handguns (restricted firearms) can be purchased by licensed target shooters and collectors and there is no limit to the number of handguns that can be purchased by licensed individuals
- A major source of illegal firearms in Canada is theft from domestic sources
- Guns can be misused by their legitimate owner, even under the strongest regulations

On April 28 and 29, 2008, Council adopted motions addressing these factors by advocating to the Government of Canada for a federal handgun ban.

On April 28 and 29, Council tabled motions seeking further amendments to bail and sentencing provisions found within the *Criminal Code*, specifically to eliminate the availability of bail to individuals charged in handgun-related crime, and by instituting a 10 year mandatory sentence to individuals found guilty of handgun-related crime.

Federal Bill C-2, the *Tackling Violent Crime Act*, which has been rigorously debated in the House of Commons and the Senate, will institute amendments to the *Criminal Code* addressing the specific bail and sentencing issues raised by Council. City staff will continue to monitor the implementation of these amendments and advocate for the City's position for strong handgun crime laws.

Strengthening National Crime Prevention Strategy Partnerships

Recommendation:

7. **The City Manager, in consultation with the Chief of Police, seek further funding partnership opportunities through the National Crime Prevention Strategy to benefit community-based safety and crime prevention initiatives.**
8. **The Deputy City Manager, Cluster A in consultation with the Chief of Police, work with staff from the National Crime Prevention Centre and other relevant federal and provincial ministries to facilitate approval of the City's application for funding for a 'gang exit' wrap around support initiative, in keeping with the goals of the National Crime Prevention Strategy.**

In their 2006 Throne Speech, the Government of Canada noted that:

"It is equally important that we prevent criminal behaviour before it has a chance to take root. To this end, the Government will work with the provinces and territories to help communities provide hope and opportunity for our youth, and end the cycle of violence that can lead to broken communities and broken lives."

This commitment resulted in the National Crime Prevention Strategy (NCPS); jointly managed with the provinces and territories. The City has established a working relationship with the National Crime Prevention Centre (NCPC) that oversees the work of the NCPS, and continues to seek opportunities to strengthen this partnership to advance the goals of the NCPS. As part of the partnership, the City has submitted an application to the NCPC for funding to establish a 'gang exit' wrap around support program that would facilitate positive intervention with youth gang members and represent a important component of the City gun violence prevention work. This application remains under NCPC review.

Potential Changes to the National Firearms Registry

Recommendation:

9. **Council advocate against the repeal of the long gun registry (Bill C-24, the act to amend the *Criminal Code* and the *Firearms Act*).**

On November 16, 2007, Minister of Public Safety Stockwell Day reintroduced Bill C-24, which intends to amend legislation to repeal the requirement for long-gun owners to register their hunting rifles and shotguns.

Although unrelated to the control of handguns, this measure could undermine the spirit of the broader gun registry. Changes to the legislation would also limit information tools currently available for conducting investigations by police services and security agencies.

Potential Further Provincial Regulations Relating to Target Shooters

Recommendation:

10. Council request the Government of Ontario to consider regulations relating to licensing of restricted firearms (handguns) for target shooting, similar to the legislation enacted by the Government of Quebec.

In December 2007, in response to the shootings at Dawson College, the Government of Quebec enacted Bill 9, an Act to protect persons with regard to activities involving firearms and amending the Act respecting safety in sport. This bill prohibits the possession of firearms in the buildings and on the grounds of childcare facilities and educational institutions and in conveyances used for public transportation and school transportation.

The bill also regulates target shooting with restricted and prohibited firearms in shooting clubs and shooting ranges, in particular by requiring operators to obtain a licence. Compliance with safety regulations, and the keeping of a register of users' and members' frequentation of the facilities, are among the other requirements set forth in the bill. In addition, a person wishing to engage in target shooting must be a member of a shooting club, meet the conditions for continued membership and obtain an attestation of competency in the safe use of firearms.

Ontario Private Member's Bill 56

Recommendation:

11. Council request the Toronto Police Services Board to consider the proposed Ontario Private Member's Bill 56, which permits the suspension of drivers' licenses and detention of vehicles connected to unlawfully possessed firearms.

On April 28 and 29, Council tabled a motion to endorse Private Member's Bill 56, currently being heard by the Ontario Legislature. The Bill proposes amendments to the *Highway Traffic Act* and the *Civil Remedies Act, 2001* to promote public safety and suppress conditions leading to crime by prohibiting driving on the highway in a motor vehicle in which there is an unlawfully possessed firearm. Proposed provisions would provide powers to police officers, acting on reasonable and probable grounds, to request the surrender of a driver's license and detain a vehicle if an unlawfully possessed firearm is found.

Municipal Support for a National Urban Safety and Security Policy Framework

Recommendation:

No recommendation

Mayor Miller has written members of the Big City Mayors Caucus (BCMC) and Mayors and Regional Chairs (MARCO) to inform them of Toronto's gun violence strategy and to obtain their support for a national handgun ban. A potential next step with these stakeholders may be to pursue the development of a national urban safety and security policy framework through a municipal association such as the Federation of Canadian Municipalities (FCM) or the BCMC.

On April 28 and 29, Council tabled a motion to pilot an "urban gun free zone" within Toronto. Aspects of this motion are addressed by recommendations found within this section, i.e., proposing provincial regulations relating to target shooters, and developing a national urban safety and security policy framework. Federal advocacy for a national handgun ban, already underway, establishes the rationale for a handgun ban and identifies the unique pressures and challenges faced by large urban areas. Land use proposals, also found within this report, address the acute problems of gun-related activity within urban boundaries. In developing these proposals, City staff will further explore the possibilities of implementing an "urban gun free zone" within Toronto.

Illicit Handguns Evade Anti-Smuggling Security at the Canada-U.S. border

Recommendation:

No recommendation

The smuggling of firearms across the Canada-U.S. border is a main source of illegal firearms in Canada. According to the Toronto Policy Services (TPS), approximately two-thirds of the guns they seize enter Canada illegally across the border. According to the CISC 2004 Annual Report, firearms that are easily and legally acquired in the U.S. can be illegally diverted to criminal groups and individuals in Canada.

The sheer size of physical geography between ports of entry, and the rough and remote unmanned border crossings, invites exploitation of cross border movement by criminal entrepreneurs and organizations to smuggle firearms across the border³⁴. Firearms are moved across international borders to support criminal organizations and individual criminals in their illicit activities, such as drug trafficking, self-protection, intimidation and, as a symbol of status.

³⁴ Criminal Intelligence Service Canada, *2007 Annual Report on Organized Crime in Canada*, www.cisc-scrs.gc.ca

In Canada, the Canada Border Services Agency (CBSA) is responsible for firearms seizures. While the CBSA is responsible for the designated entry points, the RCMP assumes responsibility for all areas in between these entry points. There are Integrated Border Enforcement Teams (IBETs) consisting of members from various U.S. and Canadian law enforcement agencies, situated along the border to assist in combating cross-border criminality.

Significant measures have already been taken by the federal government in response to massive pressure for increased border security by the U.S. government since 9/11. The 2001 *Anti Terrorism Act* and the 2002 *Public Safety Act* provide new surveillance and enforcement powers to police and security agencies. Two thousand RCMP officers were deployed to border patrol and counterterrorism tasks, and tougher immigration controls have been put in place. A Canada-U.S. agreement to implement “smart borders” was signed in 2001.

Tackling gun smuggling will require a concerted effort among the RCMP, Canada Border Services, and provincial and municipal police services.

Recently the Ministry of Public Safety announced funding to keep illegal drugs from crossing Canada's borders. Expanding anti-gun smuggling efforts can be linked to drug trafficking.

The Need to Institute Firearms Marking Regulations

Recommendation:

12. Council urge the federal government to implement the *Firearms Marking Regulations*, recently deferred to December 2009, which will permit the Government of Canada to ratify the OAS Convention, and the UN Firearms Protocol.

The ability to trace international arms flows is difficult. Placing traceable markings on firearms is a first step. These markings would make it possible to trace guns recovered at the border and used in crimes within a much shorter timeframe. International policies and programs have been initiated to address the issue.

On 14 November 1997, the Organization of American States adopted the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials (OAS Convention). The objective of the OAS Convention is to prevent firearms from entering the black market by requiring the establishment of basic controls over the manufacture, import, transit and export of firearms in each member state.

On November 12, 1997, Canada signed the OAS Convention, however it has not been ratified.

The United Nations Firearms Protocol (UN Protocol) came into force on July 3, 2005. The aim of the UN Protocol is to promote cooperation among member states to reduce trafficking in small arms and light weapons by setting out a comprehensive monitoring system. By ratifying the UN Protocol, member states commit to adopting a series of crime-control measures and to introducing legislation provisions to criminalize the illicit manufacture and trade of firearms, strengthen government licensing procedures to ensure that the firearms industry operates within a legitimate framework and establishing effective means of marking and tracing firearms.

On March 20, 2002 Canada signed the UN Protocol, however it has not been ratified.

The federal government does not ratify international agreements before the provisions are in place. As such, the earliest Canada could ratify either the OAS Convention or the UN Firearms Protocol would be after the coming into force of the *Firearms Marking Regulations*.

Under the *Firearms Act (C-68) Firearms Marking Regulations* were put in place requiring the marking of firearms imported into Canada with a mandatory imprint marked and the year of import. This would be in addition to serial numbers that are currently registered with the gun registry. These markings would allow the tracing of cross-border movement of firearms.

On November 29, 2007 the federal government deferred the implementation of the *Firearms Marking Regulations* until December 2009.

Canada's Proximity to the U.S. Gun Industry Presents Unique Security and Enforcement Challenges

Recommendation:

13. Council request the federal government to address the international impacts of U.S. gun control laws.

Canada's gun laws are strong. However they are undermined by the close proximity of the U.S. gun industry. In the United States, criminal codes are enforced by individual states. Each of the fifty states has its own constitution and laws regarding guns. Most of the states' constitutions provide for some form of state-level right to keep and bear arms. This discrepancy leads to conditions where firearms can be easily and legally acquired in the U.S. and then illegally diverted to criminal groups and individuals in Canada.

The ease with which criminals and juveniles can obtain guns is problematic throughout the United States. This has a direct impact on the amount of guns that are smuggled over the border.

It is the responsibility of the Canadian federal government to raise international security issues with the U.S. government. Although American gun control and gun politics are complex issues (see Annex), there are international frameworks in place for Canada to raise the issue of gun control and to develop solutions.

During the April 2008 North American Leaders' Summit Recent, President Bush, President Calderón, and Prime Minister committed to “Continue working to fight transnational threats that pose challenges to our countries and to the well being of our people, such as organized crime; [and] trafficking in arms...”

The Security and Prosperity Partnership of North America (SPP) Security Agenda commits to “Develop and implement a comprehensive North American strategy for combating transnational threats to the United States, Canada, and Mexico, including terrorism, organized crime, illegal drugs, migrant and contraband smuggling and trafficking.”

Efforts of American Municipalities to Undertake Litigation Against Firearm Manufacturers

Recommendation:

No recommendation

Since 1995, about 30 U.S. municipalities, including cities and counties in fifteen states and the District of Columbia, have initiated civil suits against the U.S. gun industry for recovery of the cost of police, medical and other municipal services provided as a result of gun violence. Municipalities have taken to litigation to force gun companies to accept greater regulation and responsibility for the sale of their products. Common claims are that manufacturers fail to ensure that distributors and retailers prevent their produced

Canadian criminals acquire handguns from U.S. sources through:

- 1) Licensed U.S. dealers; knowingly or unknowingly sell firearms to smugglers or resellers to criminals
- 2) Straw purchasers; an accomplice is used to legally acquire firearms from U.S. gun retailers
- 3) False Identification; a smuggler or reseller obtains false U.S. identification to purchase firearms
- 4) Secondary U.S. Markets; a smuggler or reseller purchases firearms at a secondary market (e.g. a gun show, flea market, or through a private sale); evading background checks, or required transaction records.
- 5) Theft; a smuggler or reseller steals firearms from a lawful owner, a U.S. retailer, a conveyer (common or contract carrier) or from the mail system.

Source: Criminal Intelligence Service Canada (CISC) 2007 Annual Report “Feature Focus: The Illegal Firearms Market in Canada”

firearms from being obtained by criminals due to negligent distribution networks and/or that guns are a general public nuisance.

In October 2005, the U.S. federal government passed the *Protection of Lawful Commerce in Arms Act*. This law exempts firearm manufacturers, distributors, dealers, and importers from civil liability for injuries and deaths caused by their products. The law does allow lawsuits in the case of defective gun or criminal conduct by a manufacturer or dealer. However it prohibits lawsuits of the kind filed by numerous individuals and municipalities, and calls for any pending suits to be dismissed immediately.

On April 30, 2008 a federal appeals court dismissed New York City's longstanding lawsuit against the gun industry, ruling that the new federal law protects gun makers against such suits. Gun makers have been sued dozens of times by city and state officials across the country, but no suit has ever been successful. New York City's suit against the industry has gone furthest towards a trial.³⁵

International Activity on Gun Violence Provides a Means to Develop Policy Options and Broaden Political Support

Recommendation:

No recommendation

The movement of small arms across the world presents a threat to international safety and security. Eight million new small arms are manufactured every year³⁶. The proliferation of small arms leads to negative consequences around the world, similar to those found in Toronto, including:

- War; small arms are the weapon of choice for most of the world's conflicts, as they are small, cheap and easy to carry and maintain.
- Urban gun crime; levels of small arms violence in countries at 'peace' can be as high, or even higher than levels in war zones. For example, total gun deaths in the city of Rio de Janeiro between 1997 and 2000 exceeded conflict deaths in war zones such as Afghanistan, Sierra Leone and Uganda³⁷.
- Domestic violence is more likely to be lethal if there is a gun in the home. For women, the risk of being killed by an intimate partner increases by 172% if there is a gun in the household³⁸.

³⁵ New York Times. "U.S. Appeals Court Rejects City's Suit to Curb Guns"

http://www.nytimes.com/2008/05/01/nyregion/01guns.html?_r=1&ref=nyregion&oref=slogin, May 1, 08
Accessed on: May 20, 2008

³⁶ "Gun Violence the Global Crisis", International Action Network on Small Arms (IANSA),

³⁷ Ibid

³⁸ Ibid

- Suicide attempts involving guns are more likely to be fatal than other methods.

Internationally, gun violence is treated within a public health approach. The public health community has pointed out that gun violence is a preventable problem, much like a disease or injury.

The City's participation in international fora that focus on gun violence could help broaden the City's awareness and understanding of the negative effects of gun violence on public health and safety within Toronto.

Representation at international fora could help the City build alliances with supportive international stakeholders and may provide stronger visibility for Toronto on an international stage. For example the City of Toronto may benefit from increased visibility during proceedings of the UN Programme of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons. Because participation is limited to member states and designated NGOs, the City may wish to affiliate with involved NGOs, e.g. the Coalition for Gun Control.

Partnerships to Advance American Gun Control Legislation and Enforcement

<p>Recommendation:</p>

<p><i>No recommendation</i></p>

Participation with U.S. gun control stakeholders might provide the City with a more holistic understanding of how illicit handguns are trafficked into Canada, and keep current on the various types of information and traceability tools that are available and technology for better ballistics data.

Participating with U.S. gun control stakeholders also provides a mechanism for the City to advocate for stronger U.S. gun control. Examples of such activity include:

- Continue involvement in the coalition of U.S. Mayors Against Illegal Guns
- Support Joyce Foundation and affiliates initiatives; including on gun control amendments to specific state legislation
- U.S. Mayor's Conference in Miami
- Opportunities with U.S. cities with a gun control focus, e.g. City of Chicago

5.0 Conclusion

Handgun use and misuse poses an increasing threat to public health and safety. Section Two of this report details the rates of intentional and unintentional mortality and injury in Canada due to firearms and the cumulative international experience regulating handguns, demonstrating the need for an effective response from all orders of government to this ongoing threat to public health and safety. The City of Toronto has sought to respond to the challenge of firearm violence through a variety of innovative preventative and enforcement initiatives (as detailed in Section Three), and through this paper staff has provided options for further City action within the boundaries of municipal law (Section Four). However, handgun violence is an issue that transcends municipal boundaries and supersedes municipal jurisdiction. If the public health and safety threat of handgun violence is to truly be address, all orders of government must engage in a comprehensive response consisting of preventative programming investment, innovative enforcement initiatives and strengthened regulatory regimes facilitated by new legislation where required (e.g., a national ban on handgun possession).

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APPENDIX I

The Role of Governments in Combating Gun Violence

GUN CONTROL IN CANADA

The Government of Canada has jurisdiction over legislation that governs firearms, namely the *Criminal Code*, and the *Firearms Act*. The *Firearms Act* sets out the rules for possessing a firearm, while the *Criminal Code* identifies the various firearms, weapons and devices regulated by the *Firearms Act*. Both the *Criminal Code* and the *Firearms Act* contain offences and penalties for illegal possession or misuse of a firearm. Firearms are classified under three broad categories (see sidebar). Generally speaking, handguns are classified as a restricted firearm.

All types of firearms can be legally possessed in Canada. Handguns can be acquired by anyone licensed to possess a restricted firearm, although only for specific purposes, including:

- to use in target practice or target shooting competitions;
- to form part of a collection;
- for use in connection with lawful profession or occupation; or
- to protect life.

Target shooters must provide proof that they practice or compete at an approved shooting club or range.

However target shooters do not need to be affiliated with a federally regulated target range to obtain a license.

To be authorized to have restricted firearms as part of a collection, a collector must possess technical and historical knowledge of their collection, consent to occasional inspections, and comply with regulations dealing with safe storage, record-keeping and other matters related to restricted firearms.

Only in limited circumstances may an individual possess and/or acquire a restricted firearm for employment purposes or for protection of life.

The *Firearms Act* does not limit the number of restricted firearms (handguns) a licensed owner can purchase in Canada.

Canadians can also be licensed to acquire and/or possess a prohibited firearm to form part of a collection if the collector already has one in the same category of prohibited firearms registered in their name. In addition, anyone is allowed to possess certain prohibited firearms if they had one registered in their name when it became prohibited and a valid registration certificate for that type of prohibited firearm was upheld from December 1,

Firearm Categories

Non-restricted

- Rifles and shotguns

Restricted

- Most handguns
- Semi-automatics
- Short rifles and shotguns

Prohibited

- Small handguns
- Sawed off rifles/shotguns
- Full automatics

1998 onward. The *Firearms Act* refers to this as being “grandfathered”. This status allows one to possess and acquire prohibited firearms that are already registered in Canada, but not to bring a prohibited firearm into Canada as a new import.

Canadian Firearms Program

The Canada Firearms Centre (CFC), part of the Royal Canadian Mounted Police (RCMP), oversees the Canadian Firearms Program (CFP). The overall policy objectives of the CFP include:

- maintaining the non-violent character of Canada;
- preserving the health and personal safety of Canadians;
- preventing the criminal misuse of firearms;
- reducing firearm suicides and accidents; and
- improving cost-recovery and cost-effectiveness

Potential gun owners must pass a firearms safety course and a strict screening process in order to obtain a licence. Screening criteria are geared to reduce potential public health and safety risks, such as domestic violence and suicide, by identifying potential risk factors, such as a history of violent behaviour or substance abuse (drugs and alcohol), an existing criminal record, a separation or pending separation, mental illness, trouble at work, or financial problems.

Acquired firearms must be individually registered to a licensed owner and safely stored; unloaded, and separated from ammunition. Handguns and other restricted weapons must be stored in a locked container, unloaded and made inoperable (trigger locked), with the ammunition stored separately.

The CFP is delivered via a partnership involving various organizations of the federal government, provincial governments and law enforcement agencies.

The Commissioner of Firearms heads the CFC and oversees operations of the Program. Within each province a Chief Firearms Officer (CFO) is responsible for the administration of the *Firearms Act*; including:

- issuance, refusal and revocation of licences to businesses and individuals;
- issuance, refusal and revocation of Authorizations to Transport and Authorizations to Carry;
- inspection and approval of shooting clubs and ranges;
- approval of business licences (firearms and ammunition);
- conducting business inspections;

CFP Federal Partners

Public Safety Canada

- Responsible Ministry

RCMP

- CFC; *Firearms Act* and regulations

Canada Border Services Agency

- Non-resident firearm declarations

Department of Justice Canada

- Criminal Code
- Legal advisor to the CFC

Foreign Affairs Canada

- International firearms commitments

International Trade Canada

- Issues export/import firearms permits

Firearms Registrar

- Authorizes registration certificates
- Authorizes exports and imports
- Canadian Firearms Registry

- designate Canadian Firearms Safety Course Instructors and Canadian Restricted Firearms Safety Course; and
- approving gun collectors

In Ontario, the Chief Firearms Officer, operates within the Provincial Command, Investigation/Organized Crime, and is delegated authorities under the *Firearms Act* and maintains a dual reporting relationship with the federal Minister of Public Safety and Emergency Preparedness and the Ontario Minister of Community Safety and Correctional Services.

The Tackling Violent Crime Act

When the Conservative Government of Canada was elected into power they initiated a “Tackling Crime” agenda. In their first Speech from the Throne the Governor General noted that “Safe streets have long characterized Canada's communities - from villages to towns to cities. Safe communities allow families and businesses to prosper. Unfortunately, our safe streets and healthy communities are increasingly under threat of gun, gang and drug violence.” Since then, the Government of Canada has tabled various legislative amendments that will impact gun control in Canada.

On February 28, 2008, Bill C-2, the *Tackling Violent Crime Act*, received royal assent, further strengthening gun control in Canada. Amendments to the *Criminal Code* include:

- two new firearm offences, one for breaking and entering to steal a firearm and the other for robbery to steal a firearm;
- escalating mandatory sentences of imprisonment for serious firearm offences;
- strengthening the bail provisions for those accused of serious offences involving firearms and other regulated weapons; and
- providing for more effective sentencing and monitoring of dangerous and high-risk offenders

The Long-Gun Registry

On November 16, 2007, the Minister of Public Safety Stockwell Day reintroduced Bill C-24 in parliament. Unrelated to the control of handguns, this bill intends legislative amendments to repeal the requirement for long-gun owners to register their hunting rifles and shotguns. These amendments were originally tabled on June 19, 2006. The proposed legislation would repeal the requirement for businesses and individuals to register non-restricted long-guns; yet still require firearms retailers to record all sales transactions of non-restricted firearms, as was the case prior to the imposition of the long-gun registry.

On May 17, 2006, the federal government introduced a series of non-legislative measures that indicate a different direction to be taken on the gun registry program. These measures include:

- transferring responsibility for the *Firearms Act* and regulations to the Royal Canadian Mounted Police (RCMP), taking over from the former Canada Firearms Centre;
- reducing the annual operating budget for the program by \$10 million;

- implementing individual license renewal fee waivers and refunds;
- eliminating physical verification of non-restricted firearms; and
- a one-year amnesty to protect currently licensed and previously-licensed owners of non-restricted firearms from prosecution and to allow them to come into compliance with all laws and regulations by May 17, 2007; change in fee structure - individuals no longer have to pay to renew of their licences.

Since then, the federal cabinet has twice approved directives to extend the long-gun amnesty; now until May 2009. The expected foregone revenue from the licence renewal fees is approximately \$15.7 million for the period of May 17, 2008, to May 16, 2009.

The National Crime Prevention Strategy

The National Crime Prevention Strategy (NCPS) is a federal framework for crime prevention intervention across Canada. The strategy, which is administered by the National Crime Prevention Centre (NCPC), has a primary focus to address the complex social, economic and cultural risk factors that can contribute to crime and victimization. Provinces and Territories partner in the Strategy, identifying groups, issues and priorities for prevention investments.

A Federal/Provincial/Territorial (F/P/T) Working Group on Community Safety and Crime Prevention provides a forum for collaboration and coordination of community safety and crime prevention activities undertaken through the NCPS. The F/P/T Working Group advises F/P/T ministers responsible for justice portfolios on the development of community safety and crime prevention policies and programs. As well, the Group shares information on initiatives relating to community safety and crime prevention efforts.

Province of Ontario Gun Violence Strategy

In March 2008, the Ontario Government announced recent activity to address gun violence in the province. Attorney General Chris Bentley and Minister of Community Safety and Correctional Services Rick Bartolucci met with Ministers Rob Nicholson and Stockwell Day seeking tougher gun laws, including a ban on handguns and increased anti-gun smuggling security at the Canada-US border. The Province noted, “With almost 194,000 registered handguns in Ontario, there are thousands of opportunities for theft and misuse.”

Since 2005, the Government of Ontario has invested over \$68 million in efforts to address gun violence, including the following initiatives:

- Expanding the Guns and Gangs Task Force
- Hiring police officers, Crown attorneys, victim services staff, probation and parole officers
- Opening the Operations Centre
- Opening two major crimes courts to respond to large-scale, gun and gang-related prosecutions; located at 361 University Avenue, and 2201 Finch Avenue West in Toronto,
- Expanding the OPP-led Provincial Weapons Enforcement Unit

Through its Safer Communities program, the Province has assigned 500 new police officers to community policing and 500 new officers to six priority areas: guns and gangs, youth crime, organized crime and marijuana grow operations, dangerous offenders, domestic violence and protecting children from Internet luring and child pornography. 250 of the new officers have been placed in Toronto.

In January 2006, the McGuinty government provided \$5 million to the Toronto Police Service to support its offensive against gangs in high-priority areas of the city. This effort included the establishment of the Toronto Anti-Violence Intervention Strategy (TAVIS); three rapid response teams each consisting of 18 highly trained police officers, specializing in drugs and guns interdiction to work on TAVIS. In June 2007, the government announced a one-time payment of \$5 million to the Toronto Police Service to continue and expand the TAVIS program to the Entertainment District.

APPENDIX II

Gun Control in the United States³⁹

In the United States, the protection against infringement of the right to bear arms is addressed in the Second Amendment to the United States Constitution.

Most U.S. federal gun laws are spelled out in one of the following:

- National Firearms Act (1934)
- Omnibus Crime Control and Safe Streets Act of 1968 (1968)
- Gun Control Act (1968)
- Firearms Owner's Protection Act (1986)
- Brady Handgun Violence Prevention Act (1993)
- Federal Assault Weapons Ban (1994)

U.S. federal law does not require licensing of gun owners or purchasers. Federal registration of firearms is limited to machine guns owned prior to 1986, when congress banned the possession and transfer of machine guns. Federal law prohibits the use of the National Instant Criminal Background Check System (NICS) to create any system of registration of firearms or firearm owners.

Federal law does not require gun owners to report lost or stolen firearms; it does require licensed firearms dealers to report loss or theft of firearms.

Although most Americans favour stronger gun laws, the history of the gun violence prevention movement shows that federal reform, even under the most favourable political conditions, is difficult to achieve.

In the absence of comprehensive federal regulation, it is up to state and local governments to adopt policies to prevent gun violence.

Each of the fifty states has its own constitution and laws regarding guns. Most of the states' constitutions provide for some form of state-level right to keep and bear arms. Many states' constitutional provisions for firearm rights are at least similar to, if not directly derived from, the Second Amendment of the United States Constitution.

Where states' constitutions differ from the text of the United States Constitution it is to further clarify to whom the right belongs or by the inclusion of additional, specific protections or restrictions. A majority of states speak to an individual's right to keep and bear arms. Most state constitutions go on to enumerate one or more appropriate reasons for the keeping of arms, including self-defence.

³⁹ Information derived from, "Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws" Legal community Against Violence, February 2008

Handgun Bans in the U.S.

There are no federal or state laws banning handguns. However some American municipalities have passed by-laws/ordinances that ban handguns (with exceptions for certain lawful users) and imposed registration and licensing requirements under their "police powers", (Ontario municipalities do not have the same "police powers". In Canada these police powers would be considered criminal law within the federal jurisdiction.)

The District of Columbia, Chicago and at least 12 other Illinois communities have adopted bans on the possession and/or sale of hands as a generic class of weapons.

In both Chicago and the District of Columbia, handguns are banned via a regulatory scheme that requires all firearms within the jurisdiction to be registered. In both Chicago and DC, handguns are defined as unregistrable weapons.

Chicago bans possession, retail sales and private sales or transfers of handguns and also bans the sale and/or transfer of certain handgun ammunition.

The DC ban is more comprehensive, prohibiting possession, sale, transfer, manufacture, purchase and repair of handguns.

Does the Second Amendment of the U.S. Constitution protect the rights of the militia or an individual?

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

The provisions of the Second Amendment within the U.S. Constitution are often misunderstood. Although criminal defendants and the gun lobby have repeatedly claimed that reasonable gun laws must be struck down as a violation of an individual's Second Amendment rights, the U.S. Supreme Court and an overwhelming majority of U.S. federal appellate courts have held that the Second Amendment protects the right to keep and bear arms in furtherance of a well-regulated militia.

In the 1800's, American states strictly regulated gun sales and possession, with many enacting legislation broadly prohibiting the carrying of concealed firearms. Courts uniformly upheld these laws against Second Amendment challenges.

In 1939, the U.S. Supreme Court decided the pivotal case of *United States v. Miller*, rejecting any individual right to possess firearms for purposes unrelated to the "well regulated Militia" of the States. The Court held that the "obvious purpose" of the Second Amendment was "to assure the continuation and render possible the effectiveness of "state militias, and the Second Amendment "must be interpreted and applied with that

end in view." Following that ruling, the federal appeals courts overwhelmingly rejected challenges to gun laws.

In October 2001, two judges in the Fifth Circuit Court of Appeals case of *United States v. Emerson* suggested, in what the third judge on the panel described as non-binding dicta, that the Constitution guarantees the right of an individual to possess firearms for purposes unrelated to militia service. The court nonetheless upheld a federal law prohibiting domestic violence abusers from possessing firearms and reinstated the defendant's indictment for violating that law. The Supreme Court denied review.

In 2007 the U.S. Court of Appeals for the District of Columbia Circuit struck down the District of Columbia's strict laws banning most handgun possession in the District, and requiring lawfully owned firearms to be kept unloaded and disassembled or bound by a trigger lock or similar device. *Parker v. District of Columbia*, 478 F.3d3370 (D.C. Cir. 2007). The court held that the laws violate the Second Amendment, interpreting the Amendment to protect an individual right to keep and bear firearms unrelated to service in the militia.

On November 20, 2007, the U.S. Supreme Court granted certiorari on the following question: Whether the challenged provisions "violate the Second Amendment rights of individuals who are not affiliated with and state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes?" *District of Columbia v. Heller*, 128 S. Ct. 645, 169 L. Ed.2d 417 (2007).

The Supreme Court is expected to issue its ruling in the case by June 2008.

APPENDIX III
EXCERPTS FROM *FIREARMS ACT*, S.C. 1995, c. 39,

[*Emphasis added*]

INTERPRETATION

Definitions

2. (1) In this Act

"chief firearms officer" means

(*a*) in respect of a province, the individual who is designated in writing as the chief firearms officer for the province by the provincial minister of that province,

(*b*) in respect of a territory, the individual who is designated in writing as the chief firearms officer for the territory by the federal Minister, or

(*c*) in respect of any matter for which there is no chief firearms officer under paragraph (*a*) or (*b*), the individual who is designated in writing as the chief firearms officer for the matter by the federal Minister;

PURPOSE

Purpose

4. The purpose of this Act is

(*a*) to provide, notably by sections 5 to 16 and 54 to 73, for the issuance of

(i) licences, registration certificates and authorizations under which persons may possess firearms in circumstances that would otherwise constitute an offence under subsection 91(1), 92(1), 93(1) or 95(1) of the *Criminal Code*,

(ii) licences and authorizations under which persons may possess prohibited weapons, restricted weapons, prohibited devices and prohibited ammunition in circumstances that would otherwise constitute an offence under subsection 91(2), 92(2) or 93(1) of the *Criminal Code*, and

(iii) licences under which persons may sell, barter or give cross-bows in circumstances that would otherwise constitute an offence under subsection 97(1) of the *Criminal Code*;

(*b*) to authorize,

(i) notably by sections 5 to 12 and 54 to 73, the manufacture of or offer to manufacture, and

(ii) notably by sections 21 to 34 and 54 to 73, the transfer of or offer to transfer, firearms, prohibited weapons, restricted weapons, prohibited devices, ammunition and prohibited ammunition in circumstances that would otherwise constitute an offence under subsection 99(1), 100(1) or 101(1) of the *Criminal Code*; and

(c) to authorize, notably by sections 35 to 73, the importation or exportation of firearms, prohibited weapons, restricted weapons, prohibited devices, ammunition, prohibited ammunition and components and parts designed exclusively for use in the manufacture of or assembly into automatic firearms in circumstances that would otherwise constitute an offence under subsection 103(1) or 104(1) of the *Criminal Code*.

AUTHORIZED TRANSPORTATION OF FIREARMS

Carrying restricted firearms and pre-February 14, 1995 handguns

20. An individual who holds a licence authorizing the individual to possess restricted firearms or handguns referred to in subsection 12(6.1) (pre-December 1, 1998 handguns) may be authorized to possess a particular restricted firearm or handgun at a place other than the place at which it is authorized to be possessed if the individual needs the particular restricted firearm or handgun

(a) to protect the life of that individual or of other individuals; or

(b) for use in connection with his or her lawful profession or occupation.

1995, c. 39, s. 20; 2003, c. 8, s. 56.

APPENDIX IV

EXCERPTS FROM *CRIMINAL CODE*

INTERPRETATION

Definitions

2. In this Act

"firearm" means a barrelled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes any frame or receiver of such a barrelled weapon and anything that can be adapted for use as a firearm;

"weapon" means any thing used, designed to be used or intended for use

(a) in causing death or injury to any person, or

(b) for the purpose of threatening or intimidating any person

and, without restricting the generality of the foregoing, includes a **firearm**;

PART III

FIREARMS AND OTHER WEAPONS

Interpretation

Definitions

84. (1) In this Part and subsections 491(1), 515(4.1) and (4.11) and 810(3.1) and (3.11),

"authorization" means an authorization issued under the *Firearms Act*;

"handgun" means a firearm that is designed, altered or intended to be aimed and fired by the action of one hand, whether or not it has been redesigned or subsequently altered to be aimed and fired by the action of both hands;

"prohibited firearm" means

(a) a handgun that

(i) has a barrel equal to or less than 105 mm in length, or

(ii) is designed or adapted to discharge a 25 or 32 calibre cartridge,

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

(b) a firearm that is adapted from a rifle or shotgun, whether by sawing, cutting or any other alteration, and that, as so adapted,

(i) is less than 660 mm in length, or

(ii) is 660 mm or greater in length and has a barrel less than 457 mm in length,

(c) an automatic firearm, whether or not it has been altered to discharge only one projectile with one pressure of the trigger, or

(d) any firearm that is prescribed to be a prohibited firearm;

"restricted firearm" means

(a) a handgun that is not a prohibited firearm,

(b) a firearm that

(i) is not a prohibited firearm,

(ii) has a barrel less than 470 mm in length, and

(iii) is capable of discharging centre-fire ammunition in a semi-automatic manner,

(c) a firearm that is designed or adapted to be fired when reduced to a length of less than 660 mm by folding, telescoping or otherwise, or

(d) a firearm of any other kind that is prescribed to be a restricted firearm;