
Canada Needs a Red Flag Law; the Liberal Government has Chosen a White.

For Immediate Release

Ottawa, Ontario: February 25, 2021

In the context of a broader discussion on gun control, Canadian emergency physicians have long advocated for a so-called “Red Flag Law” that would allow them to override patient confidentiality and report any patient whom they believe to be at risk of harm from the inappropriate use of firearms.

In 1994, during the national debate on Bill C-68 which initiated a gun registry, Canada’s emergency physicians called for “consideration given to the development of a medical reporting system for those individuals at risk of firearm related injury (untreated depression, psychosis, drug and alcohol abuse, disorders with poor impulse control) and those involved in domestic violence.”

Every day, emergency physicians encounter patients with suicidal thoughts, untreated psychosis, substance abuse, dementia, impulsive aggressive behaviour, and potential victims of domestic violence – people for whom a gun in the home raises concern for the safety of the patient, their family, and their communities. In a patient with a clear suicidal plan, the clinical scenario is straightforward with a referral under the Mental Health Act for a mandatory psychiatric evaluation. With the patient who makes a direct threat of violence against a specific person, courts have ruled that the physician may breach confidentiality and warn the intended victim. In all other cases, the duty to protect confidentiality prevents any ability to notify authorities of a potential concern for harm. It is these soft threats that cause us concern. On discharging a patient from the ER we do not know if we are sending them home to a loaded shotgun under the bed or an arsenal in the basement. With mental health services so generally inaccessible, that potential for escalating risk of harm increases.

There are a couple of important caveats that are worth noting in coming to an understanding of the value of a reporting law.

Canada has one of the highest rates of firearm suicide in the industrialized world. Of all firearm deaths in Canada, 75% are due to suicide. Suicide is now clearly identified as an impulsive act. Among people who made near lethal suicide attempts, 24% took less than 5 minutes between the decision to kill themselves and the actual attempt and 70% took less than 1 hour. Using a gun to attempt suicide is particularly lethal with at least a 90% success rate as compared to other methods. Further, a suicidal crisis is often temporary and most people who attempt suicide, never repeat it. In fact, more than 90% of people who survive a suicide attempt do not go on to die by suicide; the prevalent myth of method substitution is unfounded. Thus, the ability to restrict access to firearms for those who are contemplating suicide will save lives.

We were therefore surprised and delighted when Minister Blair began to muse about introducing a Red Flag Law for Canada.

Regrettably, the law proposed by Minister Blair is a mere adoption of the American Extreme Risk Protection Order (ERPO), which is becoming increasingly popular south of the border.

These laws allow either police officers or family members to petition the courts to have firearms removed temporarily from people who pose an imminent hazard to others or themselves. These ERPO restraining orders are typically granted only in emergency situations and, without formal hearings, only last for a period of weeks at most. Extensions beyond that initial period require a court hearing and may be extended for up to a year.

Therein lies the problem. The Red Flag Law as proposed by Minister Blair will require an individual petition and court order. This is far from the timely responsiveness requested by emergency physicians who, as with established victims of gunshot wounds, must be able to report the incident to the police directly to protect both the individual and their friends and families. When minutes and hours count, days and months to act is indefensible.

Further, Mr. Blair's proposed law is in no way better than the current dysfunctional system of notifying the Chief Firearms Officer. Audits have shown that their response time to any concern is often in the order of weeks to months.

Lastly, placing the onus on a family member of a depressed person, a demented parent, or the perpetrator of domestic violence to go through the court system is a largely unworkable and unwelcome hindrance to getting guns temporarily out of the home of those in crisis.

We have already seen that half-hearted, inadequately supported measures are not effective. An established Red Flag Law already exists in the Province of Quebec. It has been rendered inconsequential by a lack of education as to its use and inadequate dedicated resources for the police to effectively act. This does not mean that such laws are not helpful but rather any law requires substantial resources to make it work.

The Liberal's Bill C-21, with its failure to meaningfully restrict so-called "assault rifles" and its doomed attempt to pass handgun control to the municipalities has been a demonstrative example that they do not know what to achieve and how to achieve it.

In raising its "Red Flag", the government has waved the white flag of surrender on meaningful gun control in this country.