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CAEPs position with respect to the newly proposed Canadian Red Flag Laws – An Update

For Immediate Release

Ottawa, Ontario: October 20, 2022

Summary:

- **Canada has a gun problem and ranks 5th of OECD countries for gun deaths per capita**
- **Many firearm deaths are preventable**
- **Canada's emergency physicians are uniquely placed to identify patients at risk of firearm injury and death and supported with a medical reporting system would be able to assist in the prevention of firearm deaths**
- **CAEP welcomes and supports the concept of Red Flag Laws which allow the state to temporarily remove firearm from the homes of individuals at risk.**
- **While supportive of the federal government's plans to introduce Red Flag Laws, CAEP believes their effectiveness will be compromised by delays built into the judicial process**
- **CAEP calls for a point of care and medical reporting system, capable of immediate identification of those we recognize as at risk of harm. Local police authorities can remove firearms until such time as judicial review can be effected**
- **As medical reporting is largely a provincial concern, CAEP calls on the federal government to assist in the development, introduction, and promotion of these laws across the nation**

Emergency Medicine, Injury Prevention and Public health:

Emergency Medicine is the medical specialty dedicated to the diagnosis and treatment of unforeseen illness and Injury. The practice of emergency medicine includes the initial evaluation, diagnosis, treatment, coordination of care among multiple clinicians or community resources, and disposition of any patient requiring expeditious medical, surgical, or psychiatric care.

Fifteen million Canadians visit the emergency department on an annual basis. A major focus of emergency medicine in Canada is the assessment, stabilization, and management of trauma.

Nearly 14 000 Canadians die each year of injury, and approximately 250 000 are hospitalized, resulting in a combined estimated direct and indirect cost of injury of $12.7 billion annually. More importantly injury has remained the leading cause of death among Canadians under age 45 for decades and is currently the leading cause of potential years of life lost among those up to the age of 70 years.

Increasingly the focus of Canadian emergency physicians is to emphasize the need for greater preventive and public health measures to lessen the societal and economic burden of trauma.

As the Canadian Medical Association stated in the 2021 Gun Control policy:

"Physicians have a long history of advocacy regarding public health issues (e.g., vaccines, nicotine, asbestos, social determinants of health) leading to beneficial changes in policy and population health. As a health and safety advocate for patients as well as the public at large, the medical profession has a responsibility to advocate for the prevention of injuries and deaths including those resulting from intentional and unintentional injuries related to firearms."

Canada has a gun problem:

Though firearm injury and death pales in comparison to our southern neighbours, Canada has a gun problem which cannot be ignored, and which should not lull us into complacency.

The OECD ranks Canada as the fifth highest nation for gun deaths per capita and Canada has one of the highest rates of suicides by firearms in the developed world. Canada's firearm death rate (2.3/100,000) was more than twice as high as the rates in Germany (1.1), Ireland (1.0), Australia (1.0) and England (0.2). A 2016 international review found similar results.

From 2013 to 2017, 3,703 Canadians of all ages died from firearm injuries. This number includes both unintentional (accidental) and intentional (suicides and homicides) firearm injuries. A total of 504 of these deaths occurred in youth aged 24 years and under. From 2006 to 2016, 75% of firearm deaths in Canada were from self-harm (i.e., suicide) while 20% of deaths were from homicide.

Currently, there are over 850 firearm deaths per year and, while we hear about criminal shootings almost daily, firearm suicides occur twice as often.

Many, if not most, of these deaths are preventable.

Given this, Canada's emergency physicians believe there are two major clinical situations in our daily clinical practice where we have the opportunity to mitigate the risk of firearm death through the identification of individuals at risk and to ensure the rapid removal of firearms from the environment to prevent their inappropriate use.

On a daily basis, Canada's emergency physicians evaluate those with suicidal ideation and those who may be victims of intimate partner violence. The availability of firearms in these two discrete clinical scenarios pose a major risk for a fatal outcome. Under current laws, and with the necessary but sometimes onerous burden of patient confidentiality, we are severely limited in our ability to positively intervene and mitigate risk. To be clear, we often send people home to die because we have no choice.

Suicide:

Canada has one of the highest rates of suicides by firearms in the developed world.

Seventy-five per cent (75%) of firearm deaths in Canada are as a result of suicide. Five hundred (500) Canadians commit suicide with guns on an annual basis. Many of these are rural Canadians who use a perfectly legal and accessible long gun.

These are preventable deaths.

Up to 6-10% of emergency patients have had recent suicidal thoughts, and many people who die by suicide are seen by a healthcare provider within one year of their death (more than one-third are seen within one week of death).

Here's what the world medical literature says about firearm suicides:

There is strong and robust scientific evidence that a gun in the home is associated with a higher risk of suicide. It has been shown that for every 10% decline in gun ownership, firearm suicide rates dropped by 4.2% and overall suicide rates decreased by 2.5%.

Study after study has conclusively shown that access to firearms increases the risk of suicide and that a reduction in access to firearms reduces both the risk of suicide by firearm and overall suicide rate.

Guns are a particularly lethal method of suicide with a lethality rate of over 90%. Suicide attempts by guns are usually successful, whereas attempts by other means (e.g., drugs, cutting) are much less so

Regarding suicide, there is evidence that one third to four fifths of suicide attempts are impulsive. Among people who made near lethal suicide attempts, 24% took less than 5 min between the decision to kill themselves and the actual attempt and 70% took less than 1 h.

Many suicidal crises are temporary. Most people, who attempt suicide never repeat it. More than 90% of people who survive a suicide attempt do not go on to die by suicide.

While some substitution of method can occur, it is not as common as many believe; several studies have shown relatively little substitution effect.

Efforts to limit access to lethal means, such as firearms are a recognized and effective strategy in the prevention of suicide.

Therefore, any legislation aimed at reducing access to firearms can reasonably expect a reduction in the number of suicides.

Indeed, a recent view from the Heal-Nova Scotia Research Program showed that of eleven studies evaluating the effect of Canadian legislation on firearm mortality, nine reported a beneficial effect.

Intimate Partner Violence:

Every 6 days in Canada, a woman is murdered by her current/former partner, many of whom by gun. All had a past history of domestic violence.

Among all ED patients, 20-40% report having been a victim of intimate partner violence and almost 40% of women who are seen in the ED for an assault were injured by their partner.

More than half of female homicides are perpetrated by partners, and more than half of these involve a firearm.

The risk of death to a victim of intimate partner violence is significantly higher when there is access to a firearm. A firearm in the home increases a woman's risk of death five-fold and is such an important risk factor that a partner's access to a firearm is a question in the well-validated "Danger Assessment" for risk of death from partner violence.

Rural women are particularly vulnerable to homicide by firearms

Rifles and shotguns appear to be the weapon of choice and are used in 62% of spousal homicides.

Firearms are not only used for homicide in intimate partner violence. Gun owners enrolled in a Massachusetts batterers' intervention program described intimidating their partners by threatening to shoot them, a pet or someone they loved; cleaning, holding or loading the gun during an argument; or firing the gun during an argument.

Again, this is an issue of keeping the guns out of the hands of individuals at risk.

US laws prohibiting gun ownership for those placed under a domestic violence restraining order were accompanied by a 7% reduction in intimate partner homicide.

We can and must do better.

Other medical conditions of concern with respect to firearm safety:

There are, of course, other medical conditions that might pose an increased risk to the individual, or society, through the possession of firearms.

One could make a safe argument that a patient with a history of violence, of substance abuse or untreated delusional psychosis should probably not be in possession of a firearm.

The other medical issue of concern is the growing incidence of dementia in our population.

It is becoming increasingly apparent that dementia may well be a risk factor for suicide. For persons with dementia, the primary risk of firearm ownership is that of suicide. Firearms are the most common method of suicide among people with dementia.

Persons with dementia (PWD) who have firearm access may also place family members and caregivers at risk. Delusions about home intruders or confusion about the identity of persons in their lives may lead PWDs to confront family members, health aides, or other visitors. Access to a firearm may increase the potential for injury or death in such a situation.

Medical Reporting of Individuals at Risk:

The medical identification and reporting of an individual at risk of firearm injury or death is not a foreign concept in medicine.

There are a number of communicable and infectious diseases that, in the name of prevention, are subject to mandatory reporting to Public Health Agencies.

In emergency medicine, we not uncommonly report individuals who are at risk of harm from driving a motor vehicle or flying a plane.

We are mandated and legally obliged to report suspected cases of child abuse or elder neglect.

In 2005, Ontario adopted the Mandatory Gunshot Wounds Reporting Act (the Ontario Act). This legislation was the first of its kind in Canada and required health care facilities treating a patient with a gunshot wound to inform the police of the name of the facility, the fact that the facility is treating such a wound, and the name of the patient if known.

Over the following decade, a majority of the other provinces and one territory adopted largely identical legislation some including the requirement to report stab wounds.

There is thus adequate precedent to consider the mandatory reporting of individuals at risk of harm to themself or others from firearms possession.

The Canadian Association of Emergency Physicians (CAEP) has consistently called for such a point of care mechanism to allow emergency physicians to directly report to the police authorities any individual with a medical condition that substantially increases the risk of inappropriate firearm use and the potential for firearm injury and death.

As early as the 1990s, and the national debate on the original gun control bill, C-68, we have 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".

In effect, and for over thirty years, we have been calling for a Red Flag Law.

Red Flag Laws:

In the United States, there is growing interest in legislation to permit the identification of individuals at risk of continued gun ownership and the temporary removal of firearms from their homes until the medical or social situation has stabilized.

These so-called "Red Flag Laws" or perhaps more appropriately "Extreme Risk Protection Orders" allow police, family members and in some states, health care professionals and doctors to petition a court to take away someone's firearms for up to a year if they feel that person is a threat to themselves or others. Nineteen states and the District of Columbia — including two Republican-controlled states, Florida, and Indiana — have enacted ERPO statutes.

ERPOs include due process protections through judicial review and provide for the opportunity for immediate firearm recovery and time-limited prohibition on the possession and purchase of firearms and ammunition.

Research has shown that Red Flag/extreme risk protection orders decrease firearm-related suicide and domestic homicide.

Mass shootings are thankfully rare in Canada, but we are not immune. While they may be difficult to predict, American research has suggested that ERPOs can play a role in preventing them. Nearly 80% of perpetrators of mass violence in public places make explicit threats or behave in a manner "indicative of their intent to carry out an attack".

The proposed Red Flag Law:

The federal government has proposed the introduction of a Red Flag Law as part of its comprehensive strategy to combat gun violence in Canada.

We note that in the last federal election of 2021, both the Conservative and Liberal parties campaigned on the Introduction of such a law.

Bill C-21: An Act to amend certain Acts and to make certain consequential amendments (firearms) calls for, in part, the introduction of a Red Flag Law to "protect the safety and security of victims of intimate partner and gender-based violence".

As proposed, the new "red flag" law would:

- Enable anyone to make an application to a court for an emergency weapons prohibition order (red flag) to immediately remove firearms, for up to 30 days, from:
    - an individual who may pose a danger to themselves or others; and
    - an individual who may be at risk of providing access to firearms to another person who is already subject to a weapons prohibition order.
- Protect the safety of "red flag" applicants and those known to them, if needed, by giving a judge the option to:
    - close a "red flag" hearing's proceeding to the public and media.
    - seal the court documents for up to 30 days or remove any information that could identify the applicant for any period of time that the judge deems necessary, including on a permanent basis.

Individuals who are subject to an emergency weapons prohibition order (red flag) could be required to:

- surrender their firearm(s) to law enforcement; or
- have the firearm(s) removed temporarily on an urgent basis through a seizure order from the court.

These emergency weapons prohibition orders would help to address situations where an individual poses a risk to themselves, their family, or to public safety, including perpetrators of intimate partner and gender-based violence, people at risk of suicide, and radicalized individuals.

Limitation on access orders would address situations where an individual subject to a prohibition order could have access to a third-party's weapon.

New applications for an emergency weapons prohibition order could be made, and the court could set a hearing for a longer-term prohibition order (up to 5 years) if there continues to be reasonable grounds to believe that the individual poses a public safety risk.

A program would be developed to help raise awareness and provide tools to victims and supporting organizations on how to use the "red flag" provisions and protections. It would support vulnerable and marginalized groups including women, Indigenous people and other racialized communities and people with mental health issues, to ensure that the "red flag" law is accessible to all, particularly those who may need it the most.

CAEP's Position on the proposed Red Flag Law:

CAEP continues to be supportive of a mandatory reporting mechanism for individuals at risk of firearm injury and death.

We welcome the introduction of a Red Flag Law to Canada, and by that we mean a medical reporting system of individuals at risk, although we have concerns that in its proposed form its effectiveness will be limited. We question the seemingly exclusive focus on intimate partner and gender-based violence as we see these laws as having a maximal benefit in the prevention of suicide.

The principal problem is that the law will require an application to a court to have firearms removed from a home or an individual's possession.

We continue to maintain that 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 or weeks to act is morally indefensible.

Lastly, placing the onus on a family member of a depressed person, a demented parent, or the victim of intimate partner 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.

The major hindrance to an effective, point of care mechanism for reporting individuals at risk for firearms possession is that such reporting is, in Canada, largely a provincial responsibility.

Therefore, and in our view, the federal government's principal role should be the development of a template for medical reporting of individuals at risk and to facilitate its implementation through financial support and educational efforts.

One Canadian jurisdiction already has an established Red Flag Law. In 2007, Quebec introduced Anastasia's Law in remembrance of slain student Anastasia De Sousa who was killed at Montreal's Dawson College.

That law has been rendered largely ineffective, not because it can't work, but rather because of a lack of supportive educational efforts and inadequate dedicated resources for the police to effectively act.

So, if Canada is to introduce a Red Flag Law, as we believe they should, it is necessary to design a system that can respond in a timely manner and to commit the necessary resources through education and funding to achieve its maximal potential benefit.

Canada has a gun problem and emergency physicians have an important tole to play in prevention. An effective Red Flag Law will allow us to rapidly identify individuals at risk of firearm Injury and prevent further unnecessary and always tragic deaths.

***** If you would like more information about this topic, please contact Christina Bova at 613- 523-3343 x17 (office), 613-793-0926 (cell) or email at cbova@caep.ca**