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Chair

Mr. Daryl Kramp

Standing Committee on Public Safety and National Security

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•(0845)

[English]

The Chair (Mr. Daryl Kramp (Prince Edward—Hastings, CPC)): Good morning, colleagues and witnesses. Welcome to meeting number 70 of the Standing Committee on Public Safety and National Security.

Today, we are following up our study on Bill C-637. We have witnesses for the first hour and the second hour.

I would just notify the committee that we will be breaking in the second hour to go to committee business for a few minutes at the end so that we have a schedule to come back to on the 28th. Give some thought to that, knowing that this will be coming up.

In this first hour, we have with us, in person, Mr. Greg Farrant, manager of government affairs and policy at the Ontario Federation of Anglers and Hunters. By way of teleconference from Winfield, Alberta, we have Mr. Todd Brown from the Concerned Firearm Owners of Alberta. We will not have video, but we should have audio.

Mr. Brown, could we have a little word from you to make sure we are all live here?

Mr. Todd Brown (Concerned Firearm Owners of Alberta): Yes, we are all live.

I just want to make a quick correction. That is the Concerned Gun Owners of Alberta.

The Chair: Okay. Thank you very much. We stand corrected, sir.

Both of our witnesses will have up to 10 minutes to make a statement, should they wish. If it is shorter, of course, then we'll have more time for Qs and As with our committee members.

We will start with Mr. Farrant. You have the floor, sir.

Mr. Greg Farrant (Manager, Government Affairs and Policy, Ontario Federation of Anglers and Hunters): Thank you very much.

Good morning, Mr. Chair, members of the committee, and Mr. Brown *in absentia*.

On behalf of the Ontario Federation of Anglers and Hunters, the largest conservation-based organization in Ontario, our 100,000 members, supporters, and subscribers, and our 725 member clubs across the province thank you for the courtesy of inviting me to appear before the committee to speak to Bill C-637, an act to amend the Criminal Code (firearms storage and transportation).

I will attempt to keep my remarks as succinct as the bill is.

It's been clear from some of the discussion around this legislation and from some of the comments made in the House that there is confusion about what the legislation does or does not do and why it is necessary. Frankly speaking, I think some of that confusion is justified, given the diversity of legal judgments and opinions that exist in case law around this matter. As someone who deals with firearms-related matters on a regular basis, initially I too found the issue to be, as my father would have said, clear as mud.

I'm not a lawyer, nor do I pretend to be one. However, my job requires me to read a lot of case law related to firearms. Before my appearance today, I spent considerable time reviewing the arguments in cases such as *R. v. McManus*, *R. v. Felawka*, *R. v. Formosa*, *R. v. Labrecque*, and *R. v. Dunn* in order to gain a better understanding of why the bill is necessary and what it seeks to achieve.

What is clear from looking at those previous cases is that there is a wide discrepancy in how BB guns, pellet guns, paintball guns, and the like are treated in terms of licensing versus how they are treated in terms of storage and transportation under both the Firearms Act and the Criminal Code.

It seems to me that the original intent of Parliament was to treat these types of guns differently under the act, as evidenced by the fact that you do not require a licence to purchase, own, or use low-velocity BB guns. Consequently, I do not believe that it was Parliament's intention to make it a criminal offence to transport or store BB guns or pellet guns differently, but that is what appears to have occurred under the law, which has resulted in the inconsistency of application we are facing.

It has been suggested that *R. v. Dunn* changed the game. It did not. In fact, it is clear in reviewing a summation of the case law by a crown prosecutor attached to the guns and gangs task force, that if anything, Dunn emphasized the discrepancy. I noted a moment ago the difference between how BB guns and pellet guns are treated in terms of licensing as opposed to how they are treated in terms of storage and transportation. Before this, no one contemplated the criminalization for storage or handling of an air gun until the Firearms Act, which is why we are here and why the bill is necessary.

Quite simply, Mr. Sopuck's bill seeks to create a mere exception so that lower velocity air guns will be treated the same under the Firearms Act for storage and transportation as they are for licensing. It deems that lower velocity air guns are not firearms for the purposes of those sections of the act and creates an exemption for individual storing or transporting of lower velocity air guns from the careless use offence under section 86 of the Criminal Code.

To achieve that, the bill would add a new subsection to subsection 84(3) of the Criminal Code to address the above. At the same time, the bill would exclude from subsection 86(2) of the Criminal Code the careless use, storage, and use requirements with respect to lower velocity air guns.

Currently this subsection creates an offence for contravention of storage and transportation regulations under the Firearms Act, despite the fact that paragraph 84(3)(d) of the Criminal Code already exempts lower velocity air guns from the provisions of the Firearms Act and its regulations, including those related to storage and transportation. In our view, this ambiguity needs to be addressed.

During debate there was concern expressed that the provisions of this bill would weaken the law regarding the storage and transportation of air guns and thus increase the risk to public safety. If we felt this to be true, I would not be sitting before you today. If we were dealing with issues around the transportation and storage of firearms that discharge a projectile, using powder and an ignition source, this story would be different. Instead, we are talking about lower velocity air guns that use compressed air from a canister or a CO₂ cartridge.

In essence, the issue at hand is that through cases like *Dunn*, which changed nothing, the courts have highlighted a discrepancy between the previous definition of a firearm and what the courts now consider to be one. This bill clarifies that lower velocity BB and pellet guns are not, in fact, firearms and reinforces the law as it was before *Dunn*.

I am of an age and a cohort who grew up in a time when low-velocity BB guns and pellet guns were the norm. They were the first gun you had as a youth for plinking at cans on a fence or shooting at paper targets with friends. In my case, and in the case of millions of Canadians, they were a part of growing up and an introduction to a lifetime involvement with firearms. Our parents counselled us about the proper use of these guns and tolerated, in my case in particular, no nonsense if you were caught being careless with them. At the same time, there was never a thought that they posed a risk to the public safety requiring them to be locked in cabinets and transported like high-powered firearms or that a failure to do so should be subject to a Criminal Code charge.

• (0850)

Let me be clear: the OFAH takes the issue of firearm safety very seriously. We deliver the Ontario hunter education program on behalf of the Ontario Ministry of Natural Resources and Forestry, which has taught over 250,000 students in the last decade.

Most of our instructors, which number about 302 currently, also deliver the Canadian firearms safety course. We work closely with the Ontario Chief Firearms Officer and the OPP on campaigns and messaging about safe use, safe storage, and safe transportation of

firearms. I have provided the clerk with an example of that, which the committee can deal with as they see fit.

There is no question that, like any gun, low-velocity BB guns and pellet guns should be used responsibly. However, in our view, they do not require regulation in terms of storage and transportation as other firearms do, and owners of these guns should not be subject to Criminal Code charges associated with storage and transportation of them, which is why we support this bill and commend Mr. Sopuck for coming forward to address an inconsistency that exists in the law.

Thank you once again, Mr. Chair and members of the committee, for affording me this opportunity.

The Chair: Thank you very much, Mr. Farrant.

We will now go to Mr. Brown.

Mr. Brown, thank you very much for bringing your concerns as well as your extensive experience here to this committee. You now have the floor, sir.

Mr. Todd Brown: Thank you very much.

Thank you to the committee for giving me this opportunity to speak to Bill C-637.

I'll give you just a little background. My name is Todd Brown. I have been doing in-depth research on the Firearms Act. I have written over a dozen articles and reviews on current and proposed gun legislation. I have maintained a gun group, which is the Concerned Gun Owners of Alberta, for several years. I am the executive director for FIRE, the Firearms Institute for Rational Education. I have been a firearms instructor and hunter training instructor for over 10 years. I'm in a position to listen to and discuss issues with gun owners as well as to inform them regarding gun legislation.

I will be short and concise as I wish to make only two points.

Bill C-637 would cover the oversight in the regulations that put innocent people, businesses, and kids at risk of criminal charges for the use and sale of BB, pellet, and paintball guns. Unless that changes, the legal door will be open to charge store owners for displaying legal merchandise and kids for using or storing BB or paintball guns.

While I support Bill C-637 in principle, I would respectfully suggest that to further simplify the legislation, the following change be implemented to replace the addition suggested by this bill. The change is that section 84 of the Criminal Code be amended by replacing subsection (3) with the following: "(3) For the purposes of sections 86, 91 to 95, 99 to 101, 103 to 107 and 117.03 of this act and the provisions of the Firearms Act, the following weapons are deemed not to be firearms".

As you see, all that needs to be done is to add section 86 to the list of sections that section 84 of the Criminal Code will affect.

My second point is that in my time as a firearms instructor, I have also wondered why my teaching kit of disabled guns was still subject to the regulations of safe storage and transportation when they do not meet the definition of a firearm. No teaching guns are capable of discharging a projectile in any manner and as such should be deemed not to be firearms. An addition to subsection 84(3) of this nature would be well received by all instructors across Canada since it would make it easier to transport and store teaching tools while decreasing the amount of paperwork, which should not apply to a disabled firearm. A disabled firearm is no more than a fancy paperweight, and this change would have no negative effects on public safety.

In conclusion, those items that do not meet the definition of a firearm should not be subject to the same legal sanctions as those that do meet the definition of a firearm.

I thank the committee for their time and their consideration of my comments.

•(0855)

The Chair: Thank you very much, Mr. Brown.

We will now go to our rounds of questioning.

For the first round of seven minutes, we will start off with Ms. James.

Ms. Roxanne James (Scarborough Centre, CPC): Thank you to both witnesses for being able to provide some comments on this bill.

I'm going to start with Mr. Farrant.

You talked a bit about not being a lawyer and so on, but you have read over many of the decisions related to gun ownership and so forth, so you're very familiar with the court case, the reason behind it, that has brought this legislation to this committee.

I know that you're supporting this legislation. What would happen if we didn't bring forward this type of legislation? What if Mr. Sopuck hadn't decided to clarify this grey area, and we simply ignored previous court decisions that have created this kind of discrepancy? What do you think could happen as a result?

Mr. Greg Farrant: I think my colleague out west, Mr. Brown, has outlined what could potentially happen. Do I think there are going to be a spate of charges against 12-year-olds for inappropriately storing or transporting a BB gun or a paintball gun or a pellet gun under the current law? No. Is that potential there? Yes, and not just for children, but for adults as well.

There are millions of these guns in the country that are used by all sorts of people for recreational purposes, as I said, whether it's plinking cans on a fence post or shooting at targets. A lot of kids are introduced to them at a younger age. Technically under the law, all those people would be subject to charges under the Criminal Code if this is not amended. It's pretty cut and dried in that context because there is a discrepancy in the law.

Ms. Roxanne James: When we talk about this bill, we talk about BB guns, pellet guns, and paintball guns. Are there any other firearms that would fall into this category of low velocity, as you described it, versus what is required to be licensed for other firearms?

Mr. Greg Farrant: Again, I'm not aware of that. It doesn't mean it doesn't exist. Certainly this is different from high-velocity guns that exceed certain standards in muzzle velocity, which are subject to storage and transportation restrictions under the law because of their velocity. I'm not aware of other examples. Mr. Brown may be able to comment on that, but generally speaking, we're talking about BB guns, pellet guns, paintball guns, and the like.

•(0900)

Ms. Roxanne James: We heard from Mr. Sopuck, the mover of this private member's bill, on Tuesday. He talked at great length with regard to the outdoor community and the use of these types of low-velocity firearms. I don't even call them firearms. With respect to that community, do you agree it would be in support of this type of legislation?

Mr. Greg Farrant: I do. For instance, the OFAH has a very large heritage hunting and fishing centre next door to our head office in Peterborough that was opened several years ago. There is a rifle range and an archery range in the basement. We use low-velocity air guns on the rifle range. These are used by classes of children from primary school up to high school when they're visiting the centre on a regular basis.

If this law's not passed, this would affect a lot of people even in the way we carry out our business at the heritage centre.

Ms. Roxanne James: Thank you very much.

Mr. Brown, thank you very much for your opening remarks. You mentioned very briefly about cleaning up the regulations with respect to Bill C-637. You talked about the impact it would have on businesses, and you said kids. When we've been talking about this bill, our focus has been more on the user community as opposed to those who sell or distribute these types of guns.

I'm wondering if you could expand on how you think that might have an impact on businesses that might sell these types of firearms, these types of things that outdoor communities use. What businesses are we talking about?

Mr. Todd Brown: The businesses would be outdoor stores and stores that specifically deal with paintball guns. Canadian Tire sells BB guns and whatnot. Right now, they're not subject to the same laws that a regular rifle would be subject to. The businesses would have to come up with the facilities to be able to lock everything up. Some of these stores would also have to put in all sorts of stuff for the paperwork that would need to be done, to deal with the regulations, and for the handling of them as well.

Right now, with the BB guns, you can go into Canadian Tire or Walmart, or wherever, and you can buy one without too much difficulty. If all of a sudden they have to start coming up with the facilities to store these things, and then they have to check on licences, and that sort of thing, it seems a little overboard on something that's of a low velocity. Basically it's a teaching tool to bring kids and other people into the general knowledge of what firearms are all about.

Ms. Roxanne James: Thank you.

It's interesting that you mentioned Canadian Tire and Walmart, because I think those are two stores that probably everyone on this committee has been to, and probably most Canadians across this country are familiar with those two larger retail stores.

Going back to the reason this bill was brought forward, which was with respect to the grey area, or the discrepancies, the courts have recently highlighted with respect to the safe storage and transportation, I'll ask you the same question. What do you think the result would be if we didn't move forward with this type of legislation? I know you have presented an alternative method to achieve the same desired result, but with respect to the impact if we do nothing at this point, what could happen?

Mr. Todd Brown: I think my colleague who is sitting with you there today put it very eloquently: businesses, kids, and adults will be open to charges they may not even be aware that they could be charged with.

This is something that's buried in the legislation. Not everybody is aware of it until they get charged with it. This kind of thing would come as a distinct surprise to anybody using one. They would be quite upset, I would think, to think something as innocuous as a BB gun or a pellet gun, or enjoying their hobby as paintballer, would be affected by the same kind of storage regulations. I'm not saying it would happen, but the opportunity for abuse by law enforcement is there, and I think that door should be closed.

• (0905)

The Chair: Thank you very much, Mr. Brown.

[Translation]

Ms. Doré Lefebvre, you have the floor. You have seven minutes.

Ms. Rosane Doré Lefebvre (Alfred-Pellan, NDP): Thank you very much, Mr. Chair.

I would also like to thank Mr. Farrant and Mr. Brown for joining us today to discuss Bill C-637.

My first questions will be about a concern of mine, a concern shared by a number of police officers with whom I have discussed the bill. It deals with the impact it could have on their work.

It is sometimes very difficult to distinguish an air gun from a regular gun. I have several air guns myself, including one that looks very much like a rifle equipped with a big telescope. From a distance, someone unfamiliar with rifles could well think it was a regular one.

I have discussed the change the bill proposes in this regard with a number of police officers. It is one of their concerns. It will certainly make their work more difficult because they will now have to distinguish between an air gun and a regular firearm. In their opinion, that could make their working conditions more dangerous, depending on the confrontations that might arise and the situations that police services may have to deal with.

My first question goes to Mr. Farrant.

Have you discussed this with any police officers? Do you understand their concern and, specifically, what do you think about it?

[English]

Mr. Greg Farrant: Thank you very much for the question. I appreciate it.

I have not discussed it with police officers; however, we did have a meeting last week with the Chief Firearms Officer of Ontario at her offices to discuss a number of issues. This was one that was on the table and there was no particular concern expressed on the part of the CFO, who is also an OPP superintendent on the force currently. There was certainly nothing expressed in concern with that.

I appreciate what you're saying, but if this change is made, police officers still have the ability to stop someone and to check a firearm. This is not about replica firearms. We're talking about a firearm that already is exempt under one section of law and not exempt under another section of law, which is confusing, quite frankly.

When you have the Criminal Code say one thing and the Firearms Act say another thing, there's no consistency there for firearms owners or for police or for anyone. Mr. Brown has indicated that there may be charges inadvertently laid in the current circumstances.

We certainly appreciate the fact that police officers have a difficult job to do. I don't think that this bill does anything to cause any further increase in public safety issues or threats to police officers. They still have the right to stop and check firearms, etc., as they would with any firearm.

But we live in a very litigious society right now and I can certainly see if the law is not changed more litigation being brought forward against people who are possessing these air guns, the low-velocity ones we're talking about, who could be subject to litigation because of the confusion in the law. We've seen a number of cases where that has been true.

I think there is a concern there to try to clear up.... Any time you can clear up the law and make it more definitive and more succinct, I think it's a good thing.

[Translation]

Ms. Rosane Doré Lefebvre: Thank you.

Mr. Brown, do you have any comments on the question I put to Mr. Farrant?

[English]

Mr. Todd Brown: I can add a little bit.

If there is a problem with the police distinguishing the two and the pellet gun's being used in the commission of a crime, it is already covered under the definition of a weapon in the Criminal Code and they can lay charges as such. However, for the general use of these tools, there won't be any more problems than there have been in the past.

I might ask you the question, what did police forces do 20 years ago with pellet guns? Usually they would go up to the individual, identify what was being used and how it was being used, and that was generally the end of it. Without these kinds of changes put into place, the possibility for criminal charges being laid, because the police forces aren't sure of what the regulations actually are, are still there.

● (0910)

[*Translation*]

Ms. Rosane Doré Lefebvre: Thank you very much.

Mr. Farrant, in your presentation and your reply to my first question, you talked about people who might face, or who currently do face, criminal charges under the current act.

Have many members of your organization ever faced criminal charges under the current act, that is, before the changes proposed in Bill C-637? Has that ever happened to any of your members? If so, could you give us an approximate idea of the number of people it has happened to?

[*English*]

Mr. Greg Farrant: Candidly, no, I'm not aware that any of our members have been charged under this section of the Criminal Code, but we do have 100,000 members across the province and I'm not always aware of what's happening to each individual member at any given time.

There has been significant case law with other people being charged.

The number of cases that I read was at least up to a dozen, and even the courts themselves were confused and they came up with different interpretations. Is the firearm a weapon? Is it not a weapon? When is it a firearm and when is not a firearm? When is it a weapon and when is it not a weapon? The courts themselves have had some difficulty in addressing how to dispose with these particular cases.

When you read the case law there have been dissenting opinions and most of those cases go right up to the Supreme Court. Clearly even the judiciary has some trouble in terms of definitions and in terms of establishing exactly what is and isn't correct under the law as it's written right now, which is why we feel this bill would clarify that and clear that up, and hopefully if there are charges laid it would be much easier to deal with in that respect for the courts.

The Chair: Thank you very much.

Mr. Norlock, for seven minutes.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you very much, Mr. Chair, and through you, thank you to the witnesses for appearing today.

Thank you for mentioning the need to make firearms regulations more simple so that the average person who owns a firearm, or even a pellet gun, or a BB gun, can rationalize its use. I'll be asking another witness a different question, based on my grandkids, but let's get around to some of the testimony that was given and to some of the questions asked at our last meeting.

You mentioned in your opening statement that the Ontario Federation of Anglers and Hunters delivers a hunters safety course on behalf of the Province of Ontario. I guess it would be more appropriate, and you can correct me if I'm wrong, to say that it's in collaboration with the Province of Ontario, based on a curriculum that you both have agreed to. You also mentioned that you give the firearms safety course in conjunction with the federal regulations.

Would it be correct to say, with regard to the 100,000-odd members of your organization, that you speak on their behalf, and that the credibility of your voice would be representative of most hunting and fishing organizations throughout Canada, with whom you converse on a regular basis, from coast to coast to coast? In your opinion, would you say that most would be agreeable not only to this bill but to the opinions you've expressed here?

Mr. Greg Farrant: Mr. Norlock, yes to all your questions. We work very closely with our affiliates across the country, in every province and every territory, from coast to coast to coast. I sit on several panels and committees with many of them on issues related to firearms and other issues. We talk about these issues among ourselves on a regular basis. So yes, I think I can safely say that my views would represent those of our affiliates across the country.

I also can speak with confidence, I believe, in saying that I represent the views of all our members. At OFAH our slogan, if you will, is: the voice of anglers and hunters. We speak frequently for our members on issues related to firearms and other issues that are before this committee and before Parliament. So yes, I do so with great confidence.

● (0915)

Mr. Rick Norlock: Would you say that one of the primary responsibilities you would take on as an organization, and your members accept wholly, is that you are conservationists first, because you want to conserve our fish species and you want to conserve the game animals that we hunt? I say "we" because I am a member. I am an avid hunter. I'm also a member of Safari Club International.

Would you not agree that conservation is the number one issue that we deal with, and that your members, in addition to conservation, simply want to be able to engage in angling and hunting, and want those laws that govern those two activities so that they can understand and properly teach their children and other people proper fishing and hunting responsibilities?

Mr. Greg Farrant: Yes. I agree. Most definitely we are first and foremost a science-based conservation organization concerned about the conservation of our fish and wildlife resources in both Ontario and across this country. Indeed, we work with partners across North America on those issues. We're certainly concerned, given that we deliver the hunter education program in Ontario, and given the fact that our instructors are also firearms instructors. They deliver the Canadian firearms safety course either separately or in conjunction with hunter safety, known as the one-stop course. As I said during my comments, we take safety very seriously.

The item I left with the clerk of the committee to deal with is a joint production by us, the Chief Firearms Officer of Ontario, and the Ontario Provincial Police about the safe storage and safe transportation of firearms. We believe in this very strongly. We work very closely with those organizations on those issues to ensure that people understand what the rules and regulations are and what the law says. Unfortunately, as Mr. Brown has pointed out, in this particular context, a lot of people out there with low-velocity BB guns and pellet guns and paintball guns would have no clue whatsoever that they could be subject to charges for moving these around, as it currently stands.

Mr. Rick Norlock: Thank you for mentioning that, because that was actually going to be my next question.

To your knowledge, based on the fact that you are intimately involved with hunting and fishing, not only in the Province of Ontario but across this great country of ours, would you say that some folks wouldn't realize that, if this legislation does not go through, some—and I will say so publicly—overzealous police officer who goes into a house and sees a BB gun in the corner might look at the Criminal Code and say, “My goodness, there is a charge here”?

Most police officers wouldn't lay a charge unless there were some other indications, something very serious in conjunction, but would you agree that if we leave the Criminal Code and firearms regulations in such a complicated way, because of a whole mishmash of different people who think they are doing good things, the majority of those folks who want to engage in a lawful, peaceful, and healthy pastime could end up being on the wrong end of the law?

Mr. Greg Farrant: That's correct. I'll speak to a couple of things there.

Most police officers, the vast majority of them, do their job very well and do it as they understand it. Until this bill came forward, I admit quite candidly, I did not realize that this loophole existed, and I deal with firearms on a daily basis and have done so for 15 years at OFAH.

We find, however, on a consistent basis, that police officers across this country do not necessarily understand the Firearms Act and what safe storage and transportation are all about. There are repeated cases that occur all the time, every day, somewhere in this country, where a police officer stops somebody and lays a charge of unsafe transportation of a firearm, when in fact the person with the firearm is adhering to the law and it is the officer who doesn't understand what the Firearms Act means in terms of safe transportation. That is a problem now, and unless this is fixed, it is certainly a problem for a whole range of other people.

• (0920)

The Chair: Thank you very much, Mr. Norlock and Mr. Farrant.

We now go to Mr. Easter.

Hon. Wayne Easter (Malpeque, Lib.): Thank you to both witnesses. Thank you, Mr. Farrant, for the additional research you did before coming to this committee.

Before I start my line of questioning, Mr. Chair, rather than take time from the committee, I have a question for the clerk.

I mentioned at the last meeting that I felt Public Safety and Emergency Preparedness should come before the committee. I understand they have refused. Did they give a reason why?

The Clerk of the Committee (Mr. Leif-Erik Aune): The correspondence is on the system. I don't have a hard copy with me for reference, but I would be happy to forward the exact correspondence to you.

Hon. Wayne Easter: Please do, if you could.

There are some questions that I think need to be asked of Public Safety on this particular bill. When it's a government bill, they are always here. When it's a private member's bill, the same implications are on society, and I think they should be here. I am extremely disappointed they refused.

In any event—

Ms. Roxanne James: Mr. Chair, on a point of order, we discussed this last time, and I think the member just answered his own question. This is a private member's bill. Instead of trying to make this something it is not, I think that perhaps we should just get back to questioning.

Hon. Wayne Easter: Mr. Chair, you can take this out of my time.

Whether it's a private member's bill or a government bill, when it deals with the Criminal Code, it has the same implications. In fact, when it is a private member's bill, and I've put forward some private member's bills, you don't have the advantage of having the Department of Justice go through it as you do in a government bill, so I think it is even more important to have them here.

In any event, they have refused for whatever reason, so we will not belabour the point.

Mr. Farrant, I didn't look into this, but you mentioned archery in one of your statements. How are archery products treated under the law?

Mr. Greg Farrant: They are not subject to licensing requirements or storage requirements that I am aware of. Certainly not—

Hon. Wayne Easter: Storage and transport...

Mr. Greg Farrant: They're certainly not subject to the same requirements as firearms.

Hon. Wayne Easter: I went to an archery range last summer, and there are some pretty powerful archery products out there as well.

Mr. Brown, I am actually intrigued by your proposed amendment. It would simplify things considerably if just certain products, pellet guns, paintball guns, or whatever, were exempt under the law. It would simplify it a lot more than the current proposal. If we were to look at that, what are the areas that you would see as being exempt?

Mr. Todd Brown: I don't believe I said that anything was exempt. I was working within the confines of this bill, and the recommendation I made was to put section 86 into the list of sections that section 84 of the Criminal Code will affect. I don't believe I said anything should be exempt. That would be a whole other topic that would take up too much time than what would be necessary here at the committee today.

Hon. Wayne Easter: I guess I didn't use the right words. I meant "deemed not to be firearms". I think those were your exact words.

Mr. Todd Brown: Yes, okay. That makes a difference. As you know, in the law, terminology can mean everything. I'm very up on the terminology.

The one thing I had mentioned was that as a firearms instructor—and I will state that I am a former firearms instructor due to exigent circumstances; I still own my teaching kit—all these firearms are disabled firearms that are not able to shoot or discharge a projectile in any way, shape, or form. Why they should be still considered a firearm is beyond me.

Instructors have their restricted teaching kit, for example, which are restricted class firearms that are all deactivated. They are no longer functioning firearms, so why they shouldn't be exempt under the law is something that's always bothered me in that respect. As instructors we're out there teaching and trying to make people safer, and we're being penalized by paperwork and government bureaucracy in trying to help people learn a new skill.

● (0925)

Hon. Wayne Easter: Let me come back, Mr. Chair, to the transportation and storage aspect of this particular bill.

I understand the public safety offence would still exist. That's correct, right? Mr. Farrant, you can answer that if you could.

I've said this in the House that part of the value of having these pellet guns, BB guns, etc., under the transportation and storage rules is the value of education. The Criminal Code penalty does seem a little excessive. If not that, then what?

I have two questions. What do you suggest in the absence of the current law on transportation and storage? Do you believe the public safety offence should remain if these are used at a risk to public safety?

Mr. Greg Farrant: Thank you, Mr. Easter, for the questions.

The courts in previous judgements have said that a firearm becomes a weapon only if it is used, or intended to be used, to cause death or to threaten or intimidate a person. If somebody is using a firearm, regardless of what type of firearm, for that purpose, they should still be subject to the law and charges under the law that are appropriate.

We are talking here in this context about people who innocently are going about their business with low-velocity firearms or guns where you don't even classify it as a firearm. In fact, Dunn says that pellet guns that fire under the standard that's been established have never met the definition of a firearm because they are incapable of causing serious injury or death to a person. They have further suggested that neither storage regulations made under the Firearms Act or the Criminal Code firearms offence provisions apply to them.

Far be it from me to correct a court, but subsection 86(2) creates an offence for the contravention of storage and transportation regulations made under the Firearms Act. However, paragraph 84(3) (d) of the Criminal Code exempts lower velocity firearms from the provisions of the Firearms Act and its regulations, including those relating to storage and transportation. On one hand the court is

saying one thing, and on the other hand the law is saying something different.

I think this bill serves the purpose of identifying there is an inconsistency in the law. I do not believe that in any way, shape, or form changing this legislation, approving the bill and making the change to the Criminal Code as proposed will in any way, or shape, or form threaten the public safety any more than what we currently exist under.

The Chair: Thank you very much, Mr. Farrant.

Now we have Madam Michaud.

[*Translation*]

You have five minutes.

Ms. Éline Michaud (Portneuf—Jacques-Cartier, NDP): Thank you very much, Mr. Chair.

First, I would like to thank Mr. Farrant and Mr. Brown for their presentations.

Mr. Brown, I would like to follow up on a question that my colleague Ms. Doré Lefebvre asked. Do you know whether any members of your organization have ever been convicted under the current legislation?

[*English*]

Mr. Todd Brown: No, I don't. However, given the thousands of people who are in my organization, I don't have a daily discussion with them over this.

My concerns are with the potential for something bad to happen. This is something that would be like a preventative measure. We don't want to see somebody having to go through the court system to deal with something involving a pellet gun or a BB gun.

This, as I said, is more a preventative measure. Rather than waiting for something bad to happen and saying that we have to fix it, we've identified the problem. Let's fix it before something bad happens to somebody else and they get dragged through the court system for a piece of legislation that's unclear.

● (0930)

[*Translation*]

Ms. Éline Michaud: Thank you very much.

In my constituency of Portneuf—Jacques-Cartier, there are a lot of hunters and anglers. So I am quite sensitive to their concerns. The head office of the Fédération québécoise des chasseurs et pêcheurs is located in Saint-Augustin-de-Desmaures, which is also in my constituency. So I am very familiar with the issues.

Mr. Farrant and yourself said that the bill we are studying would have a preventive effect, but that it does not seem to tackle the real issue. That is what I understand from your comments. Moreover, the Canadian Police Association mentioned that the number of actual convictions, not the number of charges brought to court, is very low, less than 10, actually. I am still new to this committee and I am trying to understand the need for this bill.

Gentlemen, I am going to bring up something else. You mentioned that businesses could be affected by the legislation. Do you know of any businesses that have financial difficulties because of the current legislation, that might have had things seized or other problems as a result of the current legislation?

Mr. Brown, you can answer first and Mr. Farrant can comment later.

[English]

Mr. Todd Brown: Personally I don't know of any problems yet, but as I said, let's take care of a problem with a preventative measure before something happens. This bill will cover something that has left a hole in the legislation, with a potential for misuse and for charges to be laid. Why don't we take care of this before something happens?

[Translation]

Ms. Éloise Michaud: To your knowledge, it is not a problem and has not been a problem in the past for the businesses selling this kind of firearm.

Mr. Farrant, are you aware of any problems that business are currently having?

[English]

Mr. Greg Farrant: No, I'm not, but I would point out that, as I said earlier, we live in a very litigious society. We also live in a society in which there are people—and everybody is entitled to their views—who very adamantly oppose the use of firearms in any way, shape, or form. There are people who believe that no person, let alone a younger person, should have access to a firearm of any type, and all it takes is one complaint and the next thing you know you have litigation.

While the number of convictions under the current law may not be high—I certainly have seen the 10 cases that were cited during the Dunn proceedings—the fact is that litigation, particularly for an individual, although for a business as well, is extremely expensive.

We have seen cases involving other parts of the Criminal Code pertaining to cruelty to animals and other parts of the law in which individuals have had charges brought against them on the basis of an individual complaint by someone who didn't like something or the actions of a person, and it has cost the individual tens of thousands of dollars only to be found not guilty or to have the charges dropped somewhere down the line. That litigation can ruin careers; it can ruin finances for people. This is a preventative measure.

The Chair: Thank you very much, Mr. Farrant.

Thank you, Madam Michaud.

Now we go to Mr. Payne, for five minutes.

Mr. LaVar Payne (Medicine Hat, CPC): I'd like to thank the witnesses for coming today and also those participating by audio conference.

As a youngster, I had a BB gun and I was taught how to use it. My father taught me that you never point it at anybody and that you make sure it's not loaded. These air guns that we're talking about, whether they're paintball guns, pellet guns, or BB guns, are air guns of low velocity, as has been stated a number of times.

I think, Mr. Brown, you said that some 20 years ago a police officer would actually stop somebody, check the air gun, and speak with them, and without a problem.

I just want to confirm that these were your comments in your opening remarks.

● (0935)

Mr. Todd Brown: Yes, I have mentioned that. Perhaps 20 years ago wasn't enough. As I age, the years seem to pass by more and more quickly. I'm referring to the time pre-1995.

As a young boy, I used to have an air gun and a pellet gun. I was never bothered by the police, even though I was out with it alone quite frequently. I never did anything illegal with it.

There were times when I had friends who had been stopped by the police or law enforcement, and things were checked out. "You guys aren't up to any trouble or anything", they would be asked, and everybody would say no, that they were just out having some fun or doing whatever, and that was that. There were no issues, never any criminal charges laid, and the parents weren't brought into it. It was done in a very rational manner.

Mr. LaVar Payne: I think, Mr. Brown and Mr. Farrant, you both indicated that if you use one of these air guns irresponsibly—you point it at somebody, threaten somebody, use it in a criminal manner—you could still be charged. I want both of you to make a comment on that.

Mr. Todd Brown: Yes, absolutely. Anything can be used as a weapon, and an air gun and a pellet gun are not exempt from that. Under the definition of a weapon in the Criminal Code, I could throw my coffee cup at you with intent and be charged with assault with a weapon. The same could be said for any of the pens that are on the table before you. It's no different with a BB or pellet gun. As long as it's being used in a responsible manner, there's no problem, but if you want to use it to commit a crime or in the commission of a crime, then yes, you are still open to criminal charges.

Mr. LaVar Payne: Okay.

Mr. Farrant.

Mr. Greg Farrant: That's correct. Anybody who uses a firearm, no matter whether it's an air gun, a BB gun, a pea gun, whatever type of article that is a firearm or a gun of any sort, in a threatening manner is subject to charges. The amendment proposed in this bill doesn't change that fact at all.

It is a fact, however—and please, I don't say this in a pejorative manner, because police officers have a very difficult job and do an admirable job—that not all police officers have an understanding of firearms law or of what safe storage or safe transportation is.

In this particular context, you could certainly see a charge being laid against somebody under the letter of the law as it currently stands. That would be unfortunate, because in the end the court would throw it out, but somebody would still have to face that issue in court. This just clears it up for police officers and everybody else in terms of understanding exactly what the law means.

Mr. LaVar Payne: I have a major concern about hundreds of thousands of kids with air guns being charged because the law isn't clarified.

I know both of you said that you're safety training instructors for firearms. Mr. Farrant, you indicated that at the Ontario Federation of Anglers and Hunters you teach young children, using air guns, in some facility that you talked about.

Mr. Greg Farrant: That's correct.

Mr. LaVar Payne: What kind of safety training do you provide to them?

Mr. Greg Farrant: The people who are instructing them are all certified. They go through the procedures of safety. It's on a firing range.

They're taught the proper way to load the firearm, the proper way to discharge the firearm. They are taught about not pointing it in any direction other than down range. They are taught not to move until the range officer says it's clear to move. They are taught all the normal safety standards that you would put in place with any firearm.

Because these are children, we take particular care to ensure that they understand the rules. They are supervised with immediate supervision. When I say "immediate", I mean supervised by somebody at their elbow at all times for every individual who is on that range at any given time.

We take that very seriously. We're not talking about high-powered firearms here. We're talking about low-velocity pellet guns, but we still take them very seriously. We don't want to see an injury to anybody for any reason. It behooves us to take those precautions.

The Chair: Thank you very much, Mr. Payne. Your time is up. I'm so sorry.

We welcome Mr. Atamanenko to our committee. You have the floor for five minutes, sir.

• (0940)

Mr. Alex Atamanenko (British Columbia Southern Interior, NDP): Thank you very much, Chair.

Thank you, gentlemen, for being here.

The argument today seems to be that the system appears to be working but that there's a possibility of abuse of the system, in other words, a possibility of charges. That's what the bill is about. That's kind of what I have in my mind as far as a summary of the argument is concerned.

The existing practice, as I understand it, is that air guns with a certain velocity, the ones we're talking about, are exempt from penalties in the Criminal Code for possession of a firearm without a valid licence or registration certificate. As we discussed, they're considered under the Criminal Code if they're used to commit a crime.

I'm just not clear in my mind in that they're part of the current practice, but they're not. The possession, acquisition, and use for lawful purposes are regulated more by provincial and municipal laws, but these arms are also exempt from specific safe storage. I don't understand. I have three rifles that are registered and locked up appropriately under the existing law. Mr. Farrant, do BB guns have to have the same storage now, or not?

Mr. Greg Farrant: Technically, under the law, yes. That's the inconsistency here. You do not currently need a licence to purchase or possess BB guns or pellet guns. But technically, under the law as it stands, they are subject to safe storage and safe transportation regulations, as is any firearm. There's the rub right there, the inconsistency.

Mr. Alex Atamanenko: The Criminal Code requires that reasonable precautions be taken when using, carrying, handling or transporting them. The law that we have for firearms is the same law that applies to these arms in question. Is that correct? Am I right?

Mr. Greg Farrant: The relevant section of the Criminal Code is paragraph 84(3)(d) and it exempts lower velocity firearms from certain offences under the Criminal Code, such as possession without a licence. It does not exempt them from other offence provisions under the code, including subsection 86(1), which makes it an offence to store or transport firearms, including lower velocity firearms, in a careless manner or without taking reasonable precautions for the safety of others.

On one hand, they're saying to go ahead and buy one, that you don't need a PAL, possession and acquisition licence, or a POL, possession only licence, like you would for a regular firearm, but on the other hand, you have to store and transport them like a regular firearm, even though they're not considered to be one under the law.

Mr. Alex Atamanenko: Here's another question for both of you.

Apparently the Canadian Police Association has raised concerns about this bill and expressed their belief that the number of convictions resulting from transporting air guns and BB guns is currently very low, in the single digits. The occurrence is so low that they are of the belief that the proposed changes in Bill C-637 are not warranted and that often police officers find it difficult to distinguish visually between a regular firearm and an air gun.

If in fact the view of the Canadian Police Association represents police officers across the country, why would we make their jobs more difficult if they feel that it might be the case?

Mr. Greg Farrant: There are many ways to respond to that.

First of all—and I don't know if this is the case here; I'm only citing a previous example, so please understand that—when we talked about Bill C-19 to scrap the long-gun registry, there was a real division within the policing community across the country, including the Canadian Association of Chiefs of Police, as to who supported it and who didn't support it. The fact that the association says one thing does not mean it speaks for all of its members across the country, I want to be clear about that.

Second, the fact that there may have been relatively few charges laid to date under this does not make it right, and if there's any opportunity to clear up ambiguities in the law, I think it behooves us to take that opportunity to make it clearer. It also helps police officers do their job when the law is clearer. Right now, as I said during my comments, it's as clear as mud. People could inadvertently be charged, and we've seen cases where they have been, and have had to go through the proceedings under the current system, as it stands.

As for police officers having difficulty, and this goes back to an earlier question, identifying replica guns, or guns which look like something that they're not, police officers, as Mr. Brown has indicated, have the ability to stop anybody at any time to identify a firearm and what has been going on with the firearm, what use it has, what type it is, etc. Nothing changes here because of this.

● (0945)

The Chair: Thank you very much. Our time is up, Mr. Atamanenko.

At this time, on behalf of the committee, I would like to thank Mr. Farrant for taking the time to be at committee again.

Mr. Brown, we thank you very much for your testimony before committee today. It has been most welcome and useful.

We will now suspend for a minute while we change witnesses for the second hour.

● _____ (Pause) _____

●

● (0950)

The Chair: Colleagues, welcome back.

We have two witnesses with us for the half hour we have left, give or take a little. Our first witness will be a little late arriving. She's at Centre Block now so she will be arriving here shortly.

We will start by way of video conference from Markham with Mr. Tony Bernardo, the executive director of the Canadian Shooting Sports Association.

We will start with you, sir, while we're waiting for Dr. Austin. You have the floor for up to 10 minutes.

● (0955)

Mr. Tony Bernardo (Executive Director, Canadian Shooting Sports Association): Thank you, Mr. Chairman and members of the SECU committee.

I'm Tony Bernardo, the executive director of the Canadian Shooting Sports Association. I have been asked to testify to this committee with regard to the technical aspects of this bill. I also wish to provide some background information regarding the development of this situation with air guns in Canada.

The current laws and regulations that Canada has regarding air guns came as a result of an RCMP firearms lab program that was trying to circumvent previous regulations in order to further restrict the possession of air guns. The firearms lab had been taking air guns of the type purchased at Canadian Tire stores, and had been firing ultralight pellets from these air guns, chronographing the velocity of

the ultralight pellets. When it was determined that the velocity exceeded 495 feet per second, they were classifying ordinary air guns as real firearms and demanding that they be registered.

Needless to say, with hundreds of thousands, perhaps millions, of these very ordinary BB guns in the public domain, the Liberal government of the day was extremely concerned that Canadians would find themselves in criminality over the purchase of a common BB gun. The minister of justice at that time, the Honourable Anne McLellan, decided to form the original firearms experts technical committee. This committee was given the mandate to develop new air gun laws that would prevent the RCMP from continuing down the path of criminalizing ordinary Canadians.

The makeup of the committee was wide and diverse and included members of the firearms community, activist groups, and the RCMP, among others. Over the course of several months, the committee met a number of times to discuss how best to keep Canadians safe without unduly restricting freedom or criminalizing ordinary people. I was privileged to be on that committee and to serve Minister McLellan in that regard.

After months of work, the committee recommended that the current air gun laws be changed from a simple 495 feet per second ceiling to a slightly more complicated 495 feet per second with a newly introduced energy component of 5.7 joules of kinetic energy. Because kinetic energy is a measure of mass times velocity squared, the use of ultralight projectiles in BB guns would not exceed the energy requirement even though the tested velocity might be over 495 feet per second. This is a very important point, and I will return to it later in this presentation.

Of particular interest to this committee might be the issue of why this law is so needed. Air guns found themselves in the crosshairs of the Supreme Court of Canada as a result of the so-called pig's eye test. The pig's eye test began to be introduced several years ago as court evidence by zealous crowns bent on obtaining Criminal Code convictions against individuals who had committed certain offences with air guns.

Related to this is the Criminal Code definition of "firearm". Section 2 states:

"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....

The pig's eye test is based on a postwar military study that demonstrated that a velocity of 214 feet per second was necessary to incapacitate a person. This was done by firing military projectiles—not BBs—into the eyes of dead pigs. However, velocity does not tell the whole story. As illustrated in the first part of this presentation, it was recognized that velocity alone is not sufficient to seriously injure a person. A speck of dust at 214 feet per second will make a person's eye water. A bowling ball at the same speed would easily kill someone.

This was recognized by Minister McLellan's committee and was incorporated into Canada's air gun laws.

As well, there has been no demonstrated correlation between a pig's eye and a human's eye. We know that an octopus' eye is different from a sparrow's eye, which is different from an alligator's eye, but there has never been a medical correlation that I'm aware of between a pig's eye and a person's eye.

Why is this important? Because the Criminal Code says “serious bodily injury...to a person”, not to a pig. If one is to accept the premise that these are interchangeable, it must be clearly established that the two are the same.

• (1000)

The third point regarding this test is that there is no legal opinion I'm aware of that states that losing an eye constitutes serious injury. I'm sure we can all agree that it would almost certainly be very painful and would bring out a huge squeamish factor in most of us, but since the beginning of mankind, people have been losing eyes in accidents and they go on to live perfectly normal lives.

Once again, I'm not suggesting that damaging an eye is not a serious matter. It certainly may be. I'm simply stating there is no legal evidence to establish this and that such a thing becomes necessary when a Criminal Code conviction hangs in the balance.

The point of all this information is that Canada's air gun laws were developed based on the results of committee recommendations from a group of experts appointed by the former Chrétien government. Minister McLellan was satisfied that the recommended changes to the old regulations on air guns were both evidence-based and satisfied public safety requirements. Indeed, we've been using these regulations since that time and there has been no lack of safety surrounding Canada's air gun laws.

Bill C-637 would not restore the former government's status quo of BB guns as non-firearms, but only speaks to the transportation and storage regulations. A kid with a BB gun could still be charged with firearms offences in certain circumstances, and myriad other very serious Criminal Code offences. The decades-old warning about being careful with your Red Ryder BB gun certainly pales against the spectre of being run through Canada's legal system. Even with the successful passage of this bill, all that would revert to the previous legislation is storage and transportation of these BB guns.

Air guns are the primary trainers of the firearms world. Many generations of novice shooters have learned the skills of marksmanship and the responsibilities of safe gun handling through the use of pellet and BB guns, and many more will. The air gun is a marvellous training tool to teach with. Air guns are quiet, safe, and very accurate. That the Supreme Court chose to circumvent the clearly

stated will of Parliament is disappointing to the tens of thousands of Canadians I represent. These lawful, trustworthy citizens of this great country now look to you to make this right again.

It is the position of the CSSA that we support this bill. We would like to see it expanded to fully return to the old status of air guns enjoyed by Canadians for so many decades. Air guns are not firearms. They do not have the reach, lethality, or potential of real firearms. Those air guns that do possess those characteristics of real firearms were already regulated adequately within Canada's legal framework. BB guns should not be treated as firearms. I think all of us intuitively recognize the wisdom of this, and we look to our Parliament to make this right again.

Thank you for your time and consideration on this now.

The Chair: Thank you very much, Mr. Bernardo, for your testimony.

We now welcome Dr. Katherine Austin, and we apologize for any confusion that might have taken place with regard to your appearance here today, but you're here now. Welcome.

Dr. Katherine Austin (Canadian Paediatric Society): Yes, I'm here now. I got some exercise running over from the other building.

The Chair: We're thinking of your health.

Things will be a little bit abbreviated as we've had some challenges with technical hook-up, etc., today. You have up to 10 minutes, and then we will go to a brief round of questions and answers, so the shorter your brief is, the more time we have for questions and answers. You have the floor.

Dr. Katherine Austin: It's pretty short. I want to say hi to Mr. Bernardo. He and I were co-presenters the last time I was here. We have to stop meeting like this.

Voices: Oh, oh!

Dr. Katherine Austin: Today I'm representing the Canadian Paediatric Society. I have a PowerPoint presentation, and you have it on paper.

We are a national professional association that represent 2,000 pediatricians, and we advocate for the health needs of children and youth. I'm really proud of the CPS. It's a wonderful organization that always puts kids' interests first. We have published a position paper on firearms and youth and safety. In fact, we have been doing that for the last 20 years. We have a lot of interest in this area. We're very grateful to you for inviting us to come today and share our expertise and recommendations on the subject of Bill C-637, which I just learned about on Monday. It's been quite a week for me, immersing myself in the details of this bill.

I will start by going to the first slide. The modern day air guns and BB guns are very different from the products that were out in the 1950s and 1960s. These have the ability to cause serious internal injury and death. Mr. Bernardo and I are going to have to totally disagree on this subject.

The Canadian Journal of Ophthalmology published a study in which they reviewed all the accidents that occurred in the Ottawa area over a period of 20 years that resulted in someone losing an eye. The medical term for having to have your eye taken out because it's been so badly damaged is enucleation. Of all of those accidents they studied over a 20-year period, air guns and BB guns were the leading cause of enucleation.

I couldn't disagree more with Mr. Bernardo about the fact that losing an eye is not in the category of serious bodily injury. Imagine your child losing an eye. It's permanent. It's disfiguring. It affects your vision and your balance. It's a terrible issue. It's not as bad as dying, but it's one of the worst things that could happen to you, short of dying.

Permanent blindness is not the only problem that air guns and BB guns can cause. I'll have you look at the next slide. The present day non-powder firearms can cause skin penetration. They can cause eye penetration. In a number of cases, deaths from air guns and BB guns have been reported. The deaths occur secondary to brain trauma. The BB has penetrated inside the head and caused so much brain trauma to cause death. We also see brain trauma, neck trauma, penetration of the chest to the heart and lungs, and penetration of the abdomen.

This new generation of air guns and BB guns is so powerful that when we make recommendations to physicians who are treating these injuries, now we say that if someone has received an injury from an air gun or a BB gun, it should be treated like a regular firearms injury. The person needs to have MRIs and CTs, and all of the kind of observation that you would expect because there may be serious internal injury.

A lot of time and effort has been expended, and I've had a crash course this week to understand the meaning of the different categories of velocity that the projectiles are shot out at. I don't know if the committee feels they are expert on this issue, but I want to share with you what I have learned about the velocities.

• (1005)

For guns that shoot a projectile with a velocity of greater than 500 feet per second, and that would be 152 metres per second for those of you who are thinking in metres, those are required to be licensed and registered. A gun like that is highly likely to cause serious injury and death.

The next category is the category that this bill is most importantly affecting. These are guns that shoot a projectile with a velocity between 246 and 500 feet per second. That velocity is plenty to cause eye penetration, skin penetration, serious injury and death. The researchers who spent a lot of time shooting at things in laboratories felt that for guns that shot projectiles with a velocity of under 246 feet per second there was a lower risk of skin penetration and eye penetration, although it's not zero. In fact, the level at which there was no eye penetration in the laboratory was 214 feet per second, or 65 metres per second.

For the purposes of the bill that we're dealing with, these would be the three categories we would need to understand. The top category would be those firearms that need to be licensed and registered. The middle category do not need to be licensed and registered, yet they still shoot projectiles at a very high velocity and are capable of causing severe injury. The bottom category would be those which are much less likely to cause serious injury.

I want you to see this picture. I got this from the Canadian Tire website. This is the Crosman TR77NPS rifle. It's projectile velocity is 495 feet per second. Remember the categories. At 500, it would have to be licensed. It's just a few feet per second below that cut-off, which would put it into a full firearm category.

This air gun is capable of causing severe injury and death; in fact, I would say more than capable—likely. There is very little difference in terms of the damage potential of this kind of weapon and what we would consider a regular firearm. Under our current Criminal Code of Canada, this gun is considered to have the potential to cause serious bodily harm, and that is rightly so. The current law allows for criminal penalties for a person who displays extreme disregard for safety in storing or handling this kind of gun.

For example, if a person left a loaded Crosman rifle on a bench in a playground near a bunch of children, that would be considered a criminal act. That's how the law is right now. That person would be liable for criminal charges. Subsection 86(1) is the subsection under which that would be the case: a person who commits an offence without a lawful excuse “in a careless manner or without reasonable precautions for the safety of other persons”.

Unfortunately, Bill C-637 specifically excludes the guns in that medium-velocity category, like the Crosman rifle. It specifically excludes those guns from this subsection. For all those guns that are very dangerous and shoot at a very high velocity, now there would be no criminal charges, no criminal liability or responsibility for a person who committed a really egregious act with a firearm like that.

•(1010)

Sorry about the next slide. The next slide is just Bill C-637, and I'm sure you are all very familiar with it. The point is that for the purposes of section 86, if the firearm shoots a projectile at under 152 metres per second, or 500 feet per second, it is specifically excluded from this subsection. Needless to say, the Canadian Paediatric Society is vehemently opposed to this change. There should definitely be criminal responsibility for someone who shows extreme disregard for the safety of the public when handling a highly dangerous weapon.

The last slide shows our recommendations.

We would strongly recommend that air guns and BB guns, the projectile velocity of which is great enough to cause eye or skin penetration, should be classified as firearms under the Criminal Code for the purposes of storage and transportation, specifically under subsection 86(1). Our opinion is that this should include all air and BB guns with a projectile velocity greater than 214 feet per second. In that scenario, over 214 feet per second, the firearms would have the capability of eye penetration; under that speed, we would not expect it to.

The next recommendation has to do with the fact that one of the reasons this law is being proposed is that there really aren't clear guidelines for storage of air guns and BB guns.

I'm right, aren't I, Mr. Bernardo? There aren't any guidelines or requirements for storage of BB guns and air guns.

•(1015)

The Chair: We'll give Mr. Bernardo an opportunity to respond when we go to questions.

Please carry on, Ms. Austin.

Dr. Katherine Austin: We would recommend that guns in the category between 214 feet per second and 500 feet per second be stored locked, unloaded, and separate from their ammunition, just as the firearms in the higher velocity category are. That would be very important to safeguarding family members and children in the home who may be curious about a firearm.

Our final recommendation is that guns in the category of less than 214 feet per second, those much less likely to cause, though not incapable of causing, serious bodily injury be regulated by the Canada Consumer Product Safety Act.

Thank you very much.

I apologize for my lateness, and I'm willing and happy to answer any questions.

The Chair: Thank you very much.

Given the fact that we will be going to committee business, we will have one round of questioning, which will be for four minutes.

We will start off with Mr. Falk.

Mr. Ted Falk (Provencher, CPC): Thank you, Mr. Bernardo and Ms. Austin, for your presentations. I must say I found them both a little on the extreme side looking at best-case and worst-case scenarios. I think I'm somewhere in between.

I can remember growing up as a young boy and getting a pellet gun from my father. It was a gift for his three sons, of whom I was the middle son, and he taught us the responsible use of it. He allowed us to go out and do some target shooting at tin cans and some gopher shooting—if it's okay to say that here. I can't imagine that by walking down a country road or even exiting the town where we lived while I was carrying this firearm that I could have been a criminal. I think it's incumbent on parents, if they're going to allow a youth to enjoy the use of a pellet gun, a BB gun, or an air gun, to also provide responsible safety training and to make sure the particular device is used safely.

I'm also looking at what the bill is actually talking about. To me the bill is talking about transportation and storage and not about how these guns should be classified. We already see in law that guns with a velocity of less than 500 feet per second are not considered firearms. You don't need to have a licence. You don't need to take the Canadian firearms safety course in order to purchase one. I think this legislation actually creates some inconsistencies in our existing laws so that some young boys who may be just out for a stroll in the country or in the hills with friends shooting at targets, aren't going to be found to be criminals. I think that's the intent of Mr. Sopuck's bill here.

Mr. Bernardo, could you comment on that a little further?

•(1020)

Mr. Tony Bernardo: Yes, I can.

First of all...[*Technical difficulty—Editor*]...500 feet per second, 495 feet per second, is an accepted world standard. Virtually every country in the world says that if it's over that, it's a firearm and if it's under that, it's a BB gun. Even in places like England, where firearms are virtually banned, you can still purchase air guns below the 500 feet per second mark.

I can tell you, sir, that the negligent storage of anything is already a criminal offence. You can be charged with criminal negligence should you leave a loaded BB gun in a place where a child could get it. That doesn't have to be enshrined in law. It's been there for many, many years already.

Mr. Ted Falk: Go ahead, Ms. Austin.

Dr. Katherine Austin: I just want to mention that I had wondered about that myself. I spoke to a crown attorney about it, and he said that in order to file a charge of criminal negligence, someone would have to be hurt. Let's not wait for that, okay? If a behaviour is clearly irresponsible and dangerous, we shouldn't have to wait for someone to be hurt to file charges.

Mr. Falk, what you said about your enjoyment of BB guns when you were young is really important. In fact, I learned how to do target shooting when I was a teenager. I have a badge somewhere—

The Chair: I'm sorry, Ms. Austin, we're over time for Mr. Falk now.

Dr. Katherine Austin: Can you let me finish my sentence?

The Chair: Make it quick, please, if you would.

Dr. Katherine Austin: Thank you.

The guns that were available when I was a kid, and probably when you were a kid, would fall in that lower velocity category. I feel pretty sure you didn't have the Crosman rifle with its 495 feet per second. These new-generation air guns and BB guns are much worse.

The Chair: I'm very sorry, but we're well over our time. We must go on now.

Madam Doré Lefebvre, you have four minutes, please.

[*Translation*]

Ms. Rosane Doré Lefebvre: Thank you very much, Mr. Chair.

I would also like to thank Ms. Austen and Mr. Bernardo for joining us to discuss BillC-637.

In the last hour, witnesses raised questions about the concerns of police officers across Canada, as expressed by the Canadian Police Association, for example. I am going to quote a passage from a study by the Association des policières et policiers provinciaux du Québec:

With respect, we seriously question where the public interest lies in permitting the free and unrestricted transportation and storage of weapons as potentially dangerous as those included in the bill.

We also believe that failing to regulate the transportation and storage of those kinds of weapons in the same way as firearms will increase the possibility of them circulating freely. That in itself can do nothing but increase the number of situations in which police officers or members of the public will encounter what they believe to be a genuine firearm, with all the unfortunate or tragic consequences that may ensue. ...we cannot look favourably on the passage of this bill because we feel that the public interest is being sacrificed to the personal interest of the small number of those it will benefit, all to the detriment of safety.

I wanted to quote the position of that association because the bill that we are studying affects public safety.

Ms. Austin, thank you for being here today. I am going to use the little time I have left to ask you some questions.

Dr. Katherine Austin: My apologies, but my French is not the best. If you speak slowly, I will be able to understand.

Ms. Rosane Doré Lefebvre: You can also use the simultaneous interpretation.

Dr. Katherine Austin: I do not have anything because I was late, but I can understand if you speak slowly.

Ms. Rosane Doré Lefebvre: There is no problem. You can listen to the simultaneous interpretation you have available.

[*English*]

Dr. Katherine Austin: Thank you. My seventh grade French doesn't take me very far.

[*Translation*]

Ms. Rosane Doré Lefebvre: I will give you time to put on your headset. The wonderful interpreters we have with us today will be able to translate what I am saying for you.

At the last committee meeting about this bill, we asked questions about the best practices to instil into young people about firearms use.

Ms. Austin, can you hear the simultaneous interpretation?

[*English*]

Dr. Katherine Austin: I have it, but it's not very loud.

[*Translation*]

Ms. Rosane Doré Lefebvre: You can control the volume of the interpretation where your microphone is.

My thanks to Mr. Atamanenko for his help. That is very kind.

At the last committee meeting, my colleague Mr. Garrison asked a question that I see as very interesting. It dealt with the best practices to instil into our children. You mentioned—

The Chair: Ms. Doré Lefebvre, you have one minute left.

Ms. Rosane Doré Lefebvre: I will try to be brief.

You mentioned the impact made by the high velocity of the air guns included in these provisions. What would be the best practices to instil into our children? What should we do to help them in this regard? Which best practices should we establish as an alternative to passing this bill?

• (1025)

[*English*]

Dr. Katherine Austin: So, not instead of the bill....

Studies have been done of children's firearms safety education that have shown that no matter how many times you give the child the right lesson, a certain percentage of those children will do the thing they shouldn't do, which is touch the gun and play with it. In fact, a lot of them will. It's very hard for young children to internalize messages 100% of the time. It's incumbent on the adults to create a safe environment for the children. Then, of course, we'll do the firearms safety education and try to teach them. But we must not assume, that just because you have told a seven-year-old boy not to touch that gun.... That seven-year-old boy is highly likely to touch the gun in a situation in which he is not supervised.

The Chair: Fine. Thank you very much.

Mr. Norlock, you have four minutes, please.

Mr. Rick Norlock: The following questions are primarily directed towards Dr. Austin.

Dr. Austin, I know there are records kept in hospitals with regard to injuries. Would I be correct to say—you're a pediatrician—that most of those injuries involving young people are fairly serious injuries such as knocking out of teeth, injured eyes, and concussions, which would be the result of games like hockey, baseball, being hit in the head with a bat, and a hockey puck in the mouth? I have a few teeth missing because of playing hockey when I was very young. Also, I wonder if there are statistics with regard to knives. I do know that with my grandchildren and me, one of the first weapons we were given as Boy Scouts and as hunters—we're hunters and fishers—was a knife.

Yet, as a pediatrician, I don't see you advocating for the registration of knives, baseball bats, or even Nerf guns. My grandkids, who are going to be visiting today to see grandpa near the end of his career as a politician, got some Nerf guns. I know for a fact that their mom and dad are explicit that they don't shoot near the eye, because if you use a Nerf gun and it hits the eye, it can cause an eye injury or, for sure, pain.

I wonder whether you would like to comment on that, as opposed to just firearms, because we're singling them out because they look bad: there's that firearm that you said really looks intimidating. I was a police officer for 30 years and there are replicas; there are plastic guns.

We had an incident where an intellectually challenged young man was sitting by the highway with a plastic gun and he didn't realize what was happening. Of course, police were dispatched and a very bad thing could have happened.

Why do we have to make criminals out of parents and young people because they put the BB gun under the bed or in a closet that wasn't locked?

Dr. Katherine Austin: It's a wonderful question and it illustrates a really important point.

Do you remember when I mentioned earlier the study that had been done on enucleation? That looked at every single accident, just as you say, that occurred in the greater Ottawa area over a period of 20 years, that resulted in the loss of an eye. I'd love to have that study right in front of me right now to see if there were any hockey players in it. The leading cause was from air guns and BB guns.

Do you know anyone who had to have their eye taken out because of a hockey injury?

Mr. Rick Norlock: No, but my companion here is nodding his head yes.

Dr. Katherine Austin: You can see how it might happen. However, it's much more likely to happen with a firearm in that category.

When we make laws for things, there needs to be an understanding of the relative lethality and the relative ability of something to cause injury and damage. We have a society that has said that firearms have the ability to cause a more serious lethality than other kinds of weapons. The firearms in the category between 246 and 500 are highly capable—

• (1030)

Mr. Rick Norlock: They're not considered firearms, Doctor.

Dr. Katherine Austin: At this point in the Canadian criminal law they are considered firearms for the purposes of subsection 86(1), with the storage and the transportation.

The Chair: Your time is up now, Mr. Norlock. Thank you.

Mr. Easter, you have four minutes.

Hon. Wayne Easter: Thank you to both witnesses for their presentations.

Mr. Chair, I think these two presentations make my point that the Department of Public Safety is being negligent in not appearing before this committee and refusing to come, because there are some questions we need ask on velocity, etc.

I have two questions, and either of you can answer. If the threshold not to go above was 246 feet per second, what kind of BB guns, pellet guns, or paintball guns would that cover, if any? Does either of you have any suggestions regarding any way to move

forward rather than with a criminal offence under transportation and storage? I think a criminal offence for...and there are people out there who have no idea that there's a criminal offence for transportation and storage of BB guns or pellet guns. Is there any other avenue open to us?

I'll start with you, Dr. Austin.

Dr. Katherine Austin: Thank you very much.

I think that the BB guns and air guns that are in the low-velocity category would not be criminalized, so that kids could still plink away at cans put up on a fence and things of that type and it would not be criminal activity. What we're trying to identify here is that category of very high-velocity air guns and BB guns that have the capability of causing more serious bodily injury.

I'm not a lawyer, so I can't entirely answer your question about other kinds of penalties, but I would say that I think it's totally reasonable to have criminal penalties for some behaviour that is likely to lead to serious bodily injury, which these guns can cause.

As to paintball guns, you can read our Canadian Paediatric Society position paper. Paintballs are capable of crushing the eye, and we recommend that kids only use them in reputable arenas and when they have eye gear and body protection.

Hon. Wayne Easter: Mr. Bernardo.

Mr. Tony Bernardo: I'd like to say, sir, that "high-velocity air guns" that are being referred to here are already considered firearms in Canadian law, and they require a licence to purchase.

The committee that was struck to deal with these air gun laws took previous laws in Canada and coordinated them with laws that are currently the standard around the world. The committee included representatives from the RCMP and the Ontario forensic centre. It determined that 495 feet per second was the accepted world standard for what constituted a firearm, that above that was the range of the very high-velocity firearms and below it was not the range in which the very high-velocity firearms fall. This was the result of several months' worth of work by the committee that Minister McClellan had put together specifically to deal with this issue, and it included medical people.

Since that time, the standard seems to be morphing all the time, and of course it always morphs down.

I might add as well that paintballs are fired at velocities below 214 feet per second and that any of the firearms we would consider to be high velocity are already considered to be guns.

• (1035)

The Chair: Thank you very much. We are out of time now.

At this point, in that our time is abbreviated this morning, I would like on behalf of the committee to thank you, Dr. Austin and Mr. Bernardo, very kindly for giving us your time and your expertise.

We will now suspend for one minute while we go in camera for committee business.

[Proceedings continue in camera]

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