

April 21, 2023

Courtroom Tweets from Wilson

[Court Challenge](#), [News](#), [Politics](#), [Property Justice](#)

The 8 day hearing in the Federal Court of Canada in Ottawa concluded today. Due to the rules of the court, we can not record or broadcast it. We did provide a link for people to register to watch the livestream, but we recognize it wasn't possible for everyone to tune in to due to work, life etc.

There will be official transcripts available at some point, and we'll make sure to provide those to you as soon as we have them, but in the meantime, we had CCFR VP of Public Relations Tracey Wilson literally sit in the courtroom for all 8 days and tweet a live play-by play. But again, not everyone is on Twitter and those long, detailed threads can be hard to follow. So here we are ... this is the text transcription from her Tweets during the entire 8 day hearing.

This will be a living storytelling of our 8 days in federal court in Ottawa, fighting Liberal gun bans for you. It's quite the story ...

First, we'll begin with some context to help it make more sense. Below you will find a list of acronyms she used in these Tweets so you can decipher what she's referring to.

AG = Attorney General

ACG = Attorney General of Canada

ATRS = Alberta Tactical Rifle Supply

AW = "Assault Weapon"

ASF = Assault "Style" Firearm

BCWF = British Columbia Wildlife Federation

CC = Criminal Code

CFO = Chief Firearms Officer

CFP = Canadian Firearms Program

CRAFM = Centre Récréatif d'Armes à Feu de Montréal

FRT = Firearms Reference Table

GIC = Governor In Council

LCM = "Large capacity Magazine"

MCC = Mass Casualty Commission

NR = Non-Restricted

OIC = Order In Council

R = Restricted

RIAS = Regulatory Impact Analysis Statement

SFSS = Specialized Firearm Support Services

The Players; a list of names used in the Tweets, who they are, which side they're on and what their role was.

The good guys first:

Judge: [Justice Catherine Kane](#)

Warner: Laura Warner, lead counsel for the CCFR case (T-577-20) from [JSS Barristers](#)

Phillips: Ryan Phillips, co-counsel for the CCFR case, JSS Barristers

Miller: Sarah Miller, co-counsel for the CCFR case, JSS Barristers

Loberg: Michael Loberg, CCFR General Counsel, [Loberg-Ector LLP](#)

Bouchelev: Arkadi Bouchelev, counsel for Doherty case (T-677-20), from [Bouchelev Law](#)

Friedman: Solomon Friedman, counsel for Parker case (T-569-20), from [Friedman Mansour LLP](#)

Meehan: Eugene Meehan, co-counsel for Eichenberg case (T-905-20), from [Supreme Advocacy LLP](#)

Slade: Thomas Slade, co-counsel for Eichenberg case, Supreme Advocacy

Burlew: Ed Burlew, counsel for Hipwell case (T-581-20)

Generoux: Christine Generoux, self represented applicant (T-735-20)

Pfifer: Counsel for the Attorney General of Alberta (intervenor)

Applicants witnesses: Rod Giltaca, Ryan Steacy, Caillin Langmann, Gray Mauser, Linda Miller, Keith Cunningham, Phil O'Dell, Travis Bader, Jim Shockey, Matt DeMille (OFAH), National Police Federation, DCRA, Stacey Chernowak (RCMP lab)

Now the other guys ...

Government's lawyers: McKinnon, Oxal, Hughson, Boyd, Gorham

Government's Witnesses: Randall Koops (Public Safety), Najma Ahmed, Ralph Blake Brown, Baldwin, Chapman, Murray Smith (RCMP lab), Klarevas

Note: if you find an acronym you can't decipher or a name that isn't listed, pop me an email and I'll update this page tracey.wilson@ccfr.ca

We will divide the text by day, let's begin.



Tracey Wilson ✓

@TWilsonOttawa

CCFR vs Canada 🇨🇦 - Federal Court Challenge to the 2020 OIC gun ban (and additional bans since).

Day 1 - Thread 1 🧵

Arrived at the Supreme Court building. We've been moved here due to bigger room size.

The @CCFR_CCDAF legal team has front bench. Waiting for Justice Kane.

9:30 AM · Apr 11, 2023 · 88.6K Views

Court reads out applicants and counsel teams.

For reference, the @CCFR_CCDAF main case is file # T-577-20 (CCFR et al)

Housekeeping issues like processes detailed.

We move to opening statements

CCFR lead counsel, Laura Warner begins. She outlines applicants under our case. Mentions Laurence Knowles has been removed from our case (he passed away in a fishing accident and was lost at sea). Introduces co-counsel and counsel for other cases.

Warner continues, speaking on behalf of all cases and lead counsel. Outlines that Solomon Friedman will begin and she will take over for remainder of the day, with CCFR co-counsel Phillips. Bouchelev will speak, then Generoux and Burlew.

Bouchelev now, provides opening statement, gives background on firearms ownership in Canada. Speaks to the reasons for ownership, controversial gun control history. Outlines how Sec117 details how and when the gov't can ban guns. The OIC violated this.

Makes the case for "reasonable use" for hunting and sporting use. Speaks to how an OIC was used rather than legislation, circumventing democracy. Speaks to gov't lack of evidence. Slams gov't affidavits as irrelevant to this discussion. Main issue is "was this ban reasonable,..."

Bouchelev continues, will provide evidence that the guns banned were absolutely reasonable.

Finishes

Burlew now, Hipwell case. Explains where we are - tells a story about how the ban happened.

Makes a “watching a movie” analogy ... speaks about compensation (never happened). Says we are “sitting in the dark in the theatre” .. says this was a political decision. Quotes page numbers in his evidence. Reads Liberal MP Tabbara statement on how they wouldn’t have had consent...

Burlew continues; they knew they wouldn’t have the votes for a bill, so they used regulation (OIC). Says every applicant can provide tremendous evidence that these guns were used for hunting and sport, collecting. Nods to Hipwell Sr’s own competition rifle.

Speaks to Hipwell’s antique hunting rifles, used in Africa. Says the OIC strips away the necessary tools for defence. Speaks to the bogus registration certificate “nullification”. Speaks to lack of parliamentary oversight. Justice Kane interjects. Asks for clarity on Tabbara...

Burlew confirms he’s saying they couldn’t have passed the ban with legislation. Speaks to the amnesty expiring this Oct, leaving owners facing criminality. Points to upcoming Friedman statements. Says we’ve had these guns for decades. Speaks to the trouble of “variant”.

Burlew continues, says only parliament has the power to do what this OIC did, regulation missed that. There is no delegation of power to cabinet alone.

Concludes

Generoux now (self rep). Introduces herself. Speaks to the discrimination against gun owners, loss of culture. Says the purpose of the OIC was abused. Thanks the Judge.

Concludes

Friedman now (Parker case). Says his argument is common to the other cases, asking if the OIC was beyond the scope. Will intro his client, provide background in firearms law, criminal consequences of the OIC. Says he will leave the admin law to those who are experts in it.

Days this case is about a “broken bargain” between the gov’t and gun owners. Details how C68 created a complex issue for gun owners. Power to ban was limited but the OIC broke the power balance. Begins details about client Cassandra Parker.

Friedman continues, describes Parker’s relationship with guns. Parker owned a firearm business, invested over \$100k in legal products. The OIC dealt her a catastrophic blow. Says her story is similar to many other gun shops. She suffered extreme financial losses.

Friedman says cabinet made a decision with this OIC, to place gun owners in jeopardy with the criminal law. Says they have tremendous power; search and seizure, penalty of prison. Says gun owners are always just a hair away from jeopardy.

Says the regulations for firearms, and administrative mistakes can result in harsh consequences. Speaks to Sec2 of the CC - definitions. Reads CC definition for “firearm”. Makes point that all guns can “cause serious injury or death” merely by definition.

Friedman continues - CC definition of “weapon”. Explains how even if a firearm isn’t used to hurt someone or threaten them, they are a weapon by definition.

When the AG tries to use this term, remember this. SC has decided all firearms are weapons by definition.

Speaks to the possession offences in the CC. C-68 made simple possession a crime under the CC. Licensing and registration came into force (part of that bargain). Details training, screening requirements. Sec91 made possession without proper license an offence.

Speaks to previous court decision, how gun owners could be caught up in regulatory regime, and end up in prison. Speaks to (previous) registration regime. Speaks to how gun owners feared that registration will lead to classification changes and confiscation down the road...

Speaks to the 3 categories of guns, Sec84 of CC.

Prohibits -

a short handgun, a certain caliber, with some exceptions.

Or "sawed off" rifles or shotguns (shortened).

Or Automatic guns (full auto).

Caveat: 4th route: anything that is deemed to be prohibited lol - regulation.

Restricted:

remainder of handguns

anything not prohibited, barrel less than 470mm, capable of discharging centre-fire ammo via semi-auto

designed or adapted to operate at a length less than...

Friedman goes on long, amazing journey showing how complex and difficult the regulations are - pointing out that owners are expected to know and comply to avoid criminality.

Continues

Definition for non restricted:

Anything not prohibited or restricted.

Says there was no regulatory process to lessen classification. Only more strict.

Classification impacts sentences, transport and storage regs, increased jeopardy, inability to lawfully own.

Friedman details what happens under prohibition. Rendered useless and without value.

GOC can prescribe many things, gun classifications, devices etc

Says of all the definitions in the CC, you won't find:

Assault weapons, assault style weapons or military style.

They don't...

Says the government will use these undefined terms throughout their evidence. Says gun owners must follow all the actual regulations and now the government wants them to determine what “style” their guns are ... aesthetics not form or function.

Friedman carries on - magazine capacity. What is a mag? A device that holds a number of cartridges ready to be loaded into the action of a firearm. Mocks gov't term in evidence of “high capacity”. Says court shouldn't be fooled by gov't use of this term. High cap already...

Friedman continues, apologizes for the complexity and confusing regulations - but 2.2M Canadians have to live by it every day, so we should try and understand it.

Goes on, defines prohibited magazines. Explains how magazines must not contain more than 5 rounds, exception:...

Says “high capacity” magazines have been prohibited for decades.

Handguns are permitted 10 rounds max. There are allowances for alteration to ensure compliance with mag caps.

Friedman goes on. Delves deep into the regulatory framework and changes made with previous legislation. Speaks to democratic accountability and debate - how responsible government is at the root of our democracy.

Reminds us that no other items come with such harsh consequences as guns, so that deal was made with owners. Reads about the powers to prescribe given to parliament. They can ban EXCEPT if those items are suitable for hunting and sporting.

Says the “bargain” made with owners was that they could buy and own with satisfaction that the government couldn't just prescribe previously legal guns as prohibited if they were suitable for hunting and sporting. It's clear - they violated this principle in the CC

Says the criminal code outlines clearly what they can and can't do. Says the respondents evidence is silent on this. Says the applicants will present reams of evidence that these guns are reasonable and have always been used for hunting and sporting use.

Sorry, missed a bit for a bathroom break.

15 minute break

If there were plenty of functionally identical replacement rifles that are suitable for use for sporting and hunting, and they are functionally identical, how are the ones that they are functionally identical to not suitable as well?

Back! CCFR lead counsel Laura Warner begins. Outlines how she will present her arguments. Speaks to the core questions from the applicants. Will provide some background on relevance and importance. Will show that “just trust us” doesn't cut it.

Reads case precedence on challenging regulations. Goes over multiple SCC cases showing abuse of reasonable use of authority. Says a review looks at what was done against the allowing authority. There must be balance.

This administrative law review is less exciting to listen to as the gun stuff, but imperative to a win.

Warner continues, speaks to “reasonableness” when using regulation. Points to previous decisions that answer the questions of what’s reasonable.

Warner outlines the two parts of a review;

The result of the regulation against the restraints

And

The rationale of the regulation against the restraints.

Speaks about the “fox in the hen house” and the idea that free reign cannot be given to legislators to expand their powers and ignore the constraints applied within the law.

Decision makers can not rewrite powers or reverse engineer their desired outcome.

The court must always decide the rationality of the decision. Checks and balances are critical to the legitimacy of the court and society. We can not shift our focus to outcome, but must focus on the way the outcome is reached.

Speaks to case precedent in Delta airlines case and obese passengers. Speaks to flawed logic. Delta knew they were losing, tried to find a way from A to B.

Judge interjects - asks about reasons and distinction. Warner confirms. Continues

Warner speaks to how the respondent (gov’t), continues to ignore the previous case law. Judge asks how you refute the GIC coming to a certain conclusion? The opinion must always rely on evidence and the decision maker is responsible for providing that.

“Just because” isn’t enough. The GIC must respect and honour the constraint.

Speaks to the respondents justification of “promoting public safety” and suggests they’re using it as their trump card to deflect responsibility for restraint.

A statement of “it’s for public safety” isn’t a trump card to do whatever you want.

She foreshadows future submissions. Says she will focus mainly on the RIAS. Speaks to the language used by the GIC.

One hour break for lunch

Before court resumes, a note because I’m being bombarded with Questions:

It’s a rule of the federal court that you can’t have the same judge for the hearing as you did for case management, to prevent bias of relationship formed during the long process of the case.

And we are back. Warner resumes. Will continue with the tests outlined in case precedent.

Speaks to the failed argument that the guns banned are “dangerous”, because all guns can be dangerous. This case requires a determination of “reasonable for hunting and sporting use”.

Warner provides an argument about the emotional reaction to ban certain firearms because that model was misused in a mass casualty or other crime. You can not prohibit something because someone else misused it. Speaks to the existing ban on large mags.

Judge interjects, asks if it's more or less problematic to catch them than to not catch them. Warner says it is already illegal to have more than 5 rounds, the guns we are discussing fall within that.

Warner points out how some were banned and some were not, that operate the...

The reason for this is because they are commonly accepted and owned for hunting and sport shooting - proving these guns are no different and are therefore reasonable for hunting and sport shooting. Warner, Judge go back and forth over amnesty.

Warner points out that these guns are permitted for hunting under the amnesty for indigenous peoples, showing they are reasonable for hunting. So are they reasonable for hunting or not? The amnesty continues to be extended, and the guns used for more hunting.

Warner continues. Reminds us that previous witness said although these guns were banned, but others available- that's not the test - the test is are they reasonable? If others are the same, why are they not banned? She's got it right here.

Warner explains that the way the regulation is written, there is no gun that can't be banned under it. This is a dangerous place to be without any scrutiny. There must be coherent justification. We don't have that here. There is no response to this Q in the government's evidence.

Speaks to affidavits from @JimShockey_ , Matt DeMille from @ofah and Canadian champion Ryan Steacy.

Cites an excerpt from Shockey affidavit: the guns banned were selected on superficial cosmetic features. They function the same as others with a wood stock.

Is it reasonable that the GIC makes determinations based on physical characteristics? Warner selected some examples. Speaks to the false statements by Liberals about "designed for soldiers to kill as many people as possible as quickly as possible".

Points out some of the guns banned were designed by Canadian sport shooters for competition. Warner continues, speaks about Matt Hipwell from Wolverine, decorated marksman, RCMP, shop owner. Speaks about "families" of guns, banned as variants.

Judge asks if it's not true that AR's have been misused? Warner responds that probably most guns have been misused. Still doesn't meet the test of "reasonable". Warner speaks about Ralph Blake Brown, outside his expertise, trying to imply increased lethality. Warner smacks that...

Warner continues, speaks about "unnamed variants". Points out Murray Smith (RCMP lab) can't define "variant". Points out Smith's contradictions in his cross examination. Smith was all over the place in trying to answer, how can anyone have faith in his determinations?

Warner speaks to the sloppy testimony from Smith, that there are no definitions, can't define which parts made guns "variants". Smith downplayed concern over vagueness. Scrutiny committee stated there must be certainty. Since 2005 this issue has persisted.

“We do not know what a variant is”. This is a major problem, an unknowable corner of the law and puts Canadians at risk. Judge asks if statement made by witness or staff. Warner: staff.

Moves on to O’Dell affidavit, which went entirely unchallenged by the feds.

Warner reads statement, speaks to how gun evolved over time. Small changes made with each iteration. Under the regulation the newest model is prohib. It is a unique design by Derya. It is not a variant by any stretch. Shows photos of the evolution of this gun.

Compares the components of the MK12 to the AR-15 - not even close. Not a variant. There is no relationship. Gov’t ignores this evidence. This is a perfect example of classification based on cosmetics. These guns were “reasonable” all along.

Goes through some analysis of the MK10 & MK12 - one banned, one isn’t. Just another example of “banned by looks”.

Warner speaks about Wyatt Singer and wife, spent life savings on launching a manufacturing business for specific firearm design.

Speaks to how Singer designed his firearm to be safe, unique. Wasn’t even compatible with other gun parts. Another example of a gun demonstrably designed for hunting and sport shooting.

Warner says judge should look at how this gun does not fit the definition from GIC.

Warner concludes. Says the evidence will prove to cause a loss of confidence. Asks that the regulation be deemed void.

Concedes to Bouchelev (Doherty case)

Bouchelev begins. Starts with Sec117 E: the government can not ban any firearm that is reasonably used for hunting or sporting use. There has to be something behind this decision, not arbitrary. There is a guardrail in the criminal code for a reason.

Highlights statement from Alan Rock from Hansard. Should respect the use of firearms and we must allow that. Canada has a historical excellence in sport shooting.

Reads other statements from the Hansard, outlining how the government must be judicious with their actions and treat legal owners with respect.

The criminal code must stand for something - the government can not just ban things arbitrarily.

Brings up previous case law. Brings up how Assoc. Chief Justice Gagne even had to compel the government to submit evidence, which they refused. They’ve provided NO evidence to support this ban. Judge asks about cabinet confidence. If they rely on it, they must share it.

Bouchelev continues, the government even refused to provide evidence in confidence to Gagne - we have only the RIAS.

Speaks to assault “style”. It’s meaningless. Like a meat style sandwich. It’s nothing.

Goes through the fundamental differences between semi autos and actual assault rifles. Shrugs off “style” entirely. Speaks to amnesty provision for continued use, sustenance hunting. If they are ok to use, how are they not reasonable?

This is an inherent contradiction.

Bouchelev continues - brings up Bader report (Silvercore). Says he is expert, CEO largest training academy. Bader tried to define “reasonable use” - details 5 considerations by hunters and sport shooters.

“Such use that sensible hunter or sportsman would use their firearm to carry out their objective of hunting and sport shooting” - Bader Report (paraphrased)

Compares a couple rifles - within no military connection.

Military rifles have full auto capability. Speaks about the common hunting rifle, Mini 14 Ranch Rifle used for varmint etc.

Shows the attempt to connect guns that aren’t related to old assault rifles. Words like “assault style” are meaningless.

The Bader Report applied the 5 hunting and sporting use criteria to each of the families of guns banned.

There are no design elements that make any of these guns more inherently dangerous.

Moves on to ethical reasons why these guns are appropriate for hunting. The Bader Report didn’t find any of these guns inherently unethical for hunting.

Accuracy is the next element that makes these rifles suited to hunting and sport shooting according to the Bader Report.

Reliability is another element that makes these guns suitable for hunting and sport shooting.

Bader determined that many modern firearms are more reliable.

Finally, the Bader Report determined “personal considerations” an important element in the reasonableness of a firearm for hunting and sport shooting. Things like size, customization, ergonomics.

Break for 15 minute recess

I’d do anything for coffee

We’re back.

Bouchelev continues. Summarizes the Bader Report. He concluded that none of the firearms or the families of firearms are unreasonable for hunting or sport shooting.

Moves on to report from Matt DeMille @ofah - Ontarios largest hunting and angling advocacy organization.

DeMille set out on a similar mission as Bader. He produced an executive summary of the firearms affected by the ban. Determined guns were banned on consideration of looks and not functionality. Judge seeks clarity on term “shoulder arms”.

Bouchelev confirms, guns that are suppressed against the shoulder to shoot (rifles and shotguns). DeMille used set of criteria for hunting rifle selection.

Sufficient caliber (min/max) is required. An ethical kill is a large part of choosing a hunting rifle.

Accuracy is also a determining factor - you must be able to shoot a limited number of rounds at certain distances.

Recoil and muzzle movement - the force generated is a determinant.

DeMille determined the type of action is also taken into account.

DeMille report speaks to types of actions of various hunting rifles. Semi auto's, lever actions, bolt are all common types of actions for hunting rifles. Besides full auto there are no actions that are unreasonable in a hunting context.

Bouchelev continues - DeMille report speaks to magazine capacity. Without a magazine you can only shoot once. Semi is relegated to 5 rounds, no limits for bolt or lever with mags.

Barrels and chokes in a shotgun can affect accuracy.

Bouchelev shows photos showing various choke spread, speaks to their purposes in hunting.

DeMille also discusses modular or adjustable design, customization. Fit, ergonomics impact accuracy.

There are some other considerations in the DeMille report. Summarily, DeMille determined all the guns banned were reasonable for hunting.

Moves on to Cunningham, decorated Veteran, expert marksman and Canada's most winning sport shooter.

Bouchelev reads through highlights of Cunningham's prestigious career. Shows a photo of him with his gun, now banned, ending his sport. Speaks about his wife Linda Miller of Milcun training facility. Together they are the godfather/mother of long range shooting and Marksmanship.

Bouchelev goes on, details how AR platform rifles and how they are used for sport in Canada. Gives some history on the AR.

Oops lost screenshare. Stand by.

Ok good now.

Bouchelev shows some marketing materials for the AR (Colt) advertised as a hunting rifle.

Modern firearms often use aluminum or plastic to reduce weight. Doesn't make them assault **style**

Cunningham report describes the difference between assault rifles and Canadian guns. Since 1978 full auto has been banned. Semi auto firearms require a single press of the trigger per single cartridge.

Report says full auto wouldn't be accurate for precision shooting due to...

Bouchelev reads Cunningham statement, speaks to statements made by Liberal politicians about assault *style*. No military uses semi auto AR-15's for combat. Use of manufactured terms like "style" have no meaning.

Bouchelev reads false statement from Bill Blair "nothing we are doing today is meant to impact hunters and sport shooters. These guns were designed for the battlefield". Cunningham, a decorated Veteran slams fear mongering statement.

Cunningham report speaks to DCRA sport shooting organization. Speaks to other disciplines like IPSC, PRS, Precision pistol, 3-Gun, etc

Says the AR-15 has been the target of the government before. Reads historical testimony about the AR.

Bouchelev finishes with data - there's never been a legally owned AR-15 for a violent crime. Judge injects - isn't that the point? Some AR's are misused? Bouchelev clarifies that all types of illegal guns are misused. This ban only affects the legally owned ones.

Bouchelev goes on, details incredible accomplishments of master shooter Linda Miller (Milcun). Highlights sections of her affidavit, explaining why the AR is so popular. Linda used hers at Women's Range Days, it's easily adjustable for smaller women's frame.

The small caliber (.223) generates less recoil, the adjustability is better suited to a woman's smaller body. Enables women to better compete in the arena with men. #GoodAngle #True

Bouchelev summarizes, Cunningham and Miller, both experts, say the AR not only reasonable, but...

Bouchelev asks judge if we should stop for today.

Judge agrees.

Court adjourned until tomorrow at 9:30am

Fin



Tracey Wilson

@TWilsonOttawa

CCFR vs Canada 🇨🇦 - Federal Court Challenge to the 2020 OIC gun ban (and additional bans since).

Day 2 - Thread 🧵

Parked further away today after a warning on my windshield.

@CCFR_CCDAF counsel once again takes the front bench. Less presence from other legal teams today. 🇨🇦

9:26 AM · Apr 12, 2023 · 61.6K Views

Justice Kane presiding. Bouchelev (Doherty case) approaches the podium and begins where we left off yesterday.

Judge asks everyone to raise their volume today.

Bouchelev dealing with technical issues ... stand by

Bouchelev begins ... addresses use of legal AR-15's in Canada. Speaks to Yukon environment officers using AR's - says they aren't likely going into combat. Reads from article that calls them "tools". Liberal MP supports AR ban, no use for them other than killing people.

Yet they're fine for environment officers to use them to deal with wildlife - even the Yukon government accepts they are reasonable for wildlife.

Bouchelev displays photos of Remington 700 bolt. Next page shows a tricked out Remington bolt (scary, black, rails, pistol grip)

Describes the features of the two versions of the SAME gun. Says we shouldn't judge a book by its cover.

Bouchelev says you won't find a single Hunter or sport shooter who thinks these guns are not reasonable.

Bouchelev says only Murray Smith wants them banned. He's neither a hunter nor a sport shooter, he's the designer of the FRT. Says Smith is simply designing his life's work in this case and his opinion should be given little weight.

Says Mr Baldwin is the only other witness wanting them banned yet he admits they are suitable and appropriate for hunting and sport shooting.

Judge asks if suitable and reasonable are the same thing. Bouchelev says government counsel wouldn't let their witnesses answer.

Judge says a race car is suitable to drive on the streets, but not reasonable.

Bouchelev says if as many citizens who own guns, drove race cars, they may be viewed as reasonable. Says we must look at their use.

Bouchelev says a race car wouldn't make it past the first pot hole in Ottawa streets (true)

Says if someone misuses their car, should we ban all cars? If someone stabs someone with a kitchen knife do we ban them? This is not the legal test for "reasonable"

Judge asks if you have two rifles that look different but are the same, yesterday we heard you can have two rifles that look the same but are different.

Also true.

Bouchelev continues. We turn to the cross examination of Murray Smith, RCMP lab.

Points to Smith comments that the guns banned are NOT assault rifles. They do not have full auto capability. Bouchelev reads Smith testimony that full auto assault rifles were banned in 1978 in Canada. Smith admits lineage doesn't equate to variant.

Continues, Smith admits hunters often select semi auto rifles for hunting applications. Smith agrees we must look at characteristics when choosing a gun.

Smith testimony - refused to answer why the 9 families were banned. Admitted they were suitable.

Smith admitted that all 9 families of guns were used in Canada for hunting and sport shooting.

On cross, Baldwin also admitted to his provinces conservation officers using AR's. Baldwin also admits to having no experience with any of the guns banned. Has never even fired a gun

Baldwin admitted on cross, that what defines what is suitable is the guns ability to safely and ethically harvest an animal. Not the style of the gun or it's legal classification.

Baldwin agrees the only reason we can't hunt with restricted or prohibits is because of classification.

The classification of a firearm doesn't impact its functionality or ability to harvest animals efficiently. Baldwin had agreed.

Bouchelev says Baldwin was never asked if these guns were suitable for hunting.

Bouchelev says that just because there may be alternatives to the guns banned, doesn't deem them unsuitable.

Bouchelev reads from Public Safety letter - where they talk about mitigating rifle replacement by banning more ..

Bouchelev says the RIAS says if legal owners opt to replace their banned guns, the Liberal government stated they'll just ban more to avoid market replacement. This isn't reasonable.

Continues, says the applicants claim the OIC violates their Sec7 rights.

Bouchelev details 3 main issues with the regulation. Very technical matters. He talks about modified versions. Says variants and modified versions should be defined somewhere considering the serious consequences. Says the FA, CC do not have any definition.

Bouchelev touches on how guns are classified. Most, but not all guns, are classified through the FRT. Says there is no law that authorizes use of the FRT. unelected RCMP officials with no oversight or notice to the public are the decision makers.

Bouchelev says it's incredible that decision of this magnitude are made in this manner. It is the sole mechanism to determine a guns legality in Canada. Turns to the procedure manual of the RCMP firearms program. Highlights certain sections, stating RCMP promotes FRT use by police and crown attorneys.

Smith confirmed on cross that they promote the FRT to police and try and convince them of its credibility. Bouchelev says it isn't voluntary because it's the only source of data. Says Smith mislead. Judge injects - asks if cops only use the FRT to determine legality?

Bouchelev confirms cops and crown attorneys use it to ensure charges are justified. It is also used by other gov't agencies. Says all agencies involved in firearms regulation, import etc rely on the FRT.

Turns to memo from Stacey Chernowak, RCMP specialist.

Memo says there are over 40 models that may fall under variant of AR (shotguns too). Chernowak says there are many guns listed that share no common elements with AR's other than furniture like stocks etc.

Technicians in the lab showed great concern.

Judge seeks clarity on position of Chernowak. Call's Classification system a lottery. There are no fixed criteria. Says technicians easily classify various guns differently. No consistency. Judge asks if tech's decision is the final step, is there any review?

Smith testimony proved he himself is the only second look. There is no appeal process for a decision. Smith himself decides. Bouchelev complains about lack of consistency. Says we need a protocol for challenging decisions.

Bouchelev reminds that mere possession can result in prison, you don't have to commit any crime. Says it would be desirable to have a definition of variant enshrined in the law. RCMP refused. DOJ said there is no reason to clarify variant, don't bother.

Returns to Smith testimony. Smith quotes dictionary definition of variant. Says it's sufficient. Smith said they use criteria like marketing materials to classify. Manufacturers bloating descriptions of guns affects their classification- not science

Smith says promotional literature is always taken into account. RCMP also assigns classification without inspection of the firearm

Bouchelev says this is highly problematic. Lab staff even objected to this. Brings up guns continually added to banned list.

Smith was unable to answer why he continued to ban more guns. Moves to discuss GunPost - online buy & sell site. Gun Post says the regulation makes it harder to weed out illegal firearms sales. Gun Post members can't determine if their guns are legal.

Gun Post mods hammered with questions from members. Bouchelev says he also tried to make Smith define "variant". Points to four separate definitions given by Smith at varying times. Smith continues to shift his opinion on the term. Unhelpful.

During cross, Smith got tangled up in his definitions, dictionary vs in practice. Says Smith continually modified his testimony. Flip flopped on variant definition many times. Definition of variant appears nowhere on CFP website or in the FRT.

Bouchelev doing a good job of dismantling Smith's testimony and credibility. The RCMP or Smith have never confirmed to anyone what definition of variant is used and gun owners have never been notified.

Bouchelev says Smith can NOT make classification decisions without a definition.

Smith says they use a whole "host of factors" to classify. Bouchelev asked who designed the host of factors? Smith admits he did. Bouchelev points out this is a body of knowledge that isn't publicly available - it's a lottery. Spin the wheel.

When asked if there is a scientific definition for variant, anywhere, published? Smith admits there is not, he has looked and it doesn't exist. Smith admits this causes controversy. Also admits there aren't checks and balances within the department.

Bouchelev returns to Bader Report (Silvercore) from yesterday. Bader knows of no legal definition for variant either. Mentions @bobzimmermp PMB which demanded a definition. Was defeated. Bader says this leaves everyone confused ... intentional?

Bouchelev says we can't expect every gun owner to be an expert. We need clarity. Judge injects, wonders why they're confused. Bouchelev compares it to car owners - they aren't all mechanics or car experts.

Bouchelev continues. Begins to explain what a receiver is on a firearm. The CC defines a receiver a firearm on its own. Bader says the receiver is the core of a firearm.

The Bader Report reviews a number of firearms that were reclassified through FRT changes but not listed in the OIC.

Judge asks how many guns were banned in this manner, 180? Bouchelev says we can't expect people to comb through a massive database every day to see if their stuff just got banned.

Bader Report speaks to a bolt action shotgun that was banned as an AR-15 variant in the FRT. Judge says if we look at the receiver are they the same? Not even close.

Moves on to another. A semi auto, also banned as an AR15 variant.

On to the ATRS Modern Hunter - shows the actual FRT for it. Shows that in 2017 it was NR, fine. Months after the 2020 OIC it was reclassified to prohib. Says you'll see this with many of the ATRS models. Bouchelev goes through them. Judge asks why? There are no comments from officials.

During Smith cross, he said they were an amalgamation of several designs. Bouchelev speaks to evolution, many things are redesigned from older versions. Smith says the ATRS is a variant of an AR10/15, Bouchelev says this is convoluted.

Court recesses for 15 minutes

Nice to see the various legal teams huddled in the lobby corner strategizing on the break.

And we're back!! Bouchelev continues. He pulls up the complete FRT version of the ATRS modern hunter. Shows the dates it was changed, months after the OIC.

If Smith relies on marketing materials, why ban the "hunter"? He applies the criteria differently.

Bouchelev describes some of the components of the rifle, technical description. The mounting system for the upper and lower are different than other rifles. Can not ever be modified to be full auto.

Wonders why the ATRS is prohib? There is no clear information. Smith even confirmed that compatibility of parts doesn't indicate lineage.

Bouchelev says this is the problem of undefined criteria and inconsistency. Smith admits it changes with individual firearms

Judge injects - asks if it tracks its lineage to a whole group of guns, how do you apply the criteria? Most guns are an amalgamation of a variety of other guns. Every bolt action gun can, at some point, trace lineage back to an 1800's soldier gun. But they aren't in the same family.

Bouchelev says it's subjective and different techs come up with different decisions on classification. Says classification by receiver would be more definitive. Moves on.

Returns to the guns described in the Bader Report.

Derya MK12 - Bader explains, semi auto shotgun (NR). July 2020 RCMP reclassified as a variant of AR15. Bouchelev says prior to the regulation it could not have been sold as NR if it was an AR15. No functional similarities.

Bouchelev says it was never viewed as an AR variant prior to the regulation. Moves on to another shotgun. Also brings up the Macabee. All were previously NR, went prohib. Share nothing with the AR platform. Mossberg 715T .22 variation of Mossberg plinkster.

Shows photos of both Mossberg semis. Shows physical comparison of the two rifles. One is traditional looking, the other black and scary. Same function. One NR, the other prohib. Nothing in common with AR other than superficial appearance.

Bouchelev continues, Ranger shotgun. Compared to other Ranger shotgun. They share same components. Again, one NR the other prohib based SOLELY on looks. Yet one classified as an AR and the other isn't.

Typhoon Defense 12. Same issue as the other examples. Superficial cosmetic appearance is judged.

Judge writing this all down.

Bouchelev says that's his submissions on variants and is ready to move to bore diameter.

Reads regulation concerning bore.

Bouchelev says we have the same problem, where the bore diameter is not defined. There is a lot of confusion over this. Opens affidavit from Gun Post. Speaks to the tools required to properly measure bore diameter, difficulty with shotgun chokes.

Gun Post affidavit details chokes vs none. Says the OIC doesn't define if we measure with or without choke. Judge asks how tough the cops would be on the 20mm rule? Lol

Bouchelev points to handgun measurements to show how strict they are.

Bouchelev reviews joint press release with CSAAA/CSSA legal opinion on shotgun bore regulation. Legal opinion said all shotguns banned. (Writers note: This was later debunked as false/bad legal opinion) but does speak to the confusion.

Bouchelev reads Bill Blair clarification on bore restrictions. Reminds us this is also just his opinion and isn't legally binding or protective. Blair's definition is inconsistent with CBSA guidelines. Bouchelev points out discrepancies.

Bouchelev pulls up Blair tweet defining where the bore should be measured. There isn't any real standard. Judge asks how the barrels are shaped. Bouchelev goes into forcing cone explanation. Everyone's eyes glaze over. This confusion equals ours lol

FRT has yet another definition of bore, similar to CBSA, but different from Blair. Gun Post points out the conflicting opinions. There are millions of these guns in circulation - we need to know.

Back to Bader Report. He was asked correct way to measure shotgun bore.

Bader provides illustration of a bore.

Can't find it. Stand by

Bouchelev asks to break for lunch.

Court is in recess for one hour

Learned my lesson from yesterday and chugged an entire coffee at lunch. Big thanks to Generoux for the company and the treat.

Waiting for Justice Kane to return

Here we go!! Justice Kane is back. Everyone is back!!

Bouchelev continues. Tells Kane the reason he couldn't find those illustrations because they were somehow removed from the record. She grants him to show them anyway.

The diagrams show a shotgun bore. Cross section of a barrel. Refers to the Bader Report. Bore diameter can change depending on conditions and type of guns. The average owner wouldn't have the tools to measure. Describes choke styles.

Reads definition of a choke. CBSA uses the same definition. Accordingly, the choke is part of the bore. Shows cross section of a barrel from above. Shows the choke in the barrel, says the diameter could be measured at any point along the barrel.

Bouchelev continues, the bore then becomes narrower towards the end of the barrel. Explains various chokes and functions. Shows side by side of various chokes, varying diameters.

Judge leans in to look ...

With a removable choke, the barrel is thinner by design, at the muzzle end. Judge asks if the choke is flush with the end of the muzzle? Yes. Does it make the barrel smaller then? Yes. Do they pop in? They screw in. Bouchelev shows her a close up.

Bouchelev makes the point that it will depend where you measure and if the choke is in. She nods.

He continues. The Bader Report explains it's designed to be easily removed by the user. FRT definition suggests that the chamber is also part of the bore.

Bouchelev shows her diagram comparisons of the forcing cone. The chamber is the widest part of the barrel and where the shell is positioned before firing. Shows her diagrams of shells inside the chamber. Bader and FRT says the choke is part of the bore.

He makes the point that parts of the bore can be wider at the chamber, forcing cone and choke. She asks for clarity on forcing cone. He provides very technical explanation. She says it's like a funnel.

Bader says after OIC the CFP was updated to include a definition of forcing bore.

Reads official description. Note that it wasn't changed on the FRT, just CFP site. Bader says the definitions contradict each other. Judge questions the experts not using the same definitions as the US organizations listed by the CFP. Bouchelev says they're not legally defined in Canada.

Bader Report says you still have to use the forcing cone under the new definition. Bader says the average owner would not be capable of measuring bore precisely. Judge asks if you would know that information when you first acquire the shotgun? Bouchelev says it's not common data shared.

Judge wants to know, what are the size increments of shotguns when you buy them? Would it be obvious to someone they have a bigger "weapon". Bouchelev explains the size variations are minute and usually not provided.

Bouchelev explains you would just assume but there is nothing in industry standards. Judge asks again, could you "eyeball" it like a bike tire? No. Bouchelev says people don't look for bore diameter when shopping, it goes by gauge.

Judge admits she knows very very little about guns, hence all the questions. Asks if a layperson would do some prep work before buying shotgun. Bouchelev says no. Most people would simply ask for gauge or caliber. Admits this is why so much confusion is created. She thanks him.

Bader Report compares FRT and CFP bore definitions and concludes the 20mm standard would affect a 12 gauge as its 20.6 -20.2mm at its thickest and narrowest points. A forcing cone would be 22mm.

Bouchelev says he is done with that for now. Judge asks about our schedule. Bouchelev remembers he wants to go back to Smith testimony about bore diameter. Smith says they use “nominal bore diameter”.

Smith’s interpretation of the CFP method is incorrect. Smith came up with this himself. Buchelev says that other than the Smith affidavit we don’t see his method anywhere. The CFP does not consider the choke part of the bore, in conflict with written definition.

Buchelev says we can’t rely on the caliber or gauge because not all shotguns have the size stamped on them. Smith confirms it is not a legal requirement to have the gauge stamped on the barrel.

Smith admits he simply came up with a concept himself on how to measure. Bouchelev asks Smith about FRT definition for bore. Smith says it needs to be updated for the new requirements. Smith concedes that without updates, most 10/12 gauge would exceed 20mm

Bouchelev moves on to muzzle velocity (+10k joules)

He explains again that joules aren’t something that the average gun owner could measure or know. It’s a formula for kinetic energy. Bader Report explains most owners wouldn’t have the skill or a chronograph.

Bader says ammunition and external conditions can affect muzzle velocity as well. Bouchelev asks if we should assume just because your gun is “capable of” firing above 10k joules, is it banned? An owner may not even know that.

Bouchelev explains guns are caliber specific so not every cartridge fits every gun. Compares ammo loaded hot to super fuel. Bader says humidity, elevation and windage can also impact velocity.

Bouchelev says on a final note, experts on both sides agree you would need special equipment to measure joules.

Concludes that if all of this is confusing for experts, how can we expect average owners to know?

Bouchelev concludes. Turns it over to Phillips (CCFR case). Outlines his goal for today - show that the OIC is intentionally vague. Speaks to @CivilAdvantage1 affidavit - speaks to the massive size of the FRT. will speak to variant.

Phillips says there is a test for “vagueness” under the law. Suggests the undefined term “variant” allows to much leeway for the RCMP. Deletes proper risk zone. Speaks to the head of the families of firearms banned.

Phillips speaks about the trouble with variants, when undefined. Also section with “including the ...” is problematic because you have named and unnamed variants. Says the regulation refers to variants, yet

there is no definition in the law.

Judge asks for clarity on wording. Phillips says they purposely left it open and vague to add to it. Phillips notes that Justice Gagne said over 600 have been added as “variants”. Points to the problematic language “whether they are listed or not”

Phillips says there are future firearms that don’t even exist yet, but will be captured under this OIC because they’ll just deem them “variants”. Points to RIAS. Reiterates the term variant has created a lot of controversy in the context of gun control.

Phillips reminds us the Senate has requested a definition of variant. Former MOJ JWR declined to define it. Nowhere has the GIC, parliament empowered RCMP to classify guns. Speaks to FRT.

Phillips says it is ambiguous. Smith himself flip flops on a definition of variant. Says the broad definition gives the courts nothing to grasp on to, we have to draw a line somewhere. Smith even admitted it’s a “very general” definition.

Phillips speaks to affidavit of Coops (Public Safety). Judge asks about broadness of the term. Phillips has case law and a features test. Says the government uses “assault STYLE firearms” because you can’t define it.

Phillips is focusing for now on the administrative law element of our case. This is likely where we will win btw.

Speaks to Macabee rifle, unique, specific, Canadian made. Was previously NR. Points to Singer affidavit.

Phillips speaks to some 2017 statements about the Macabee. Reads design specifications. Extra safety features were added. The entire gun was deliberately designed with safety in mind and to avoid compatibility with actual military rifles.

Talks about the proprietary parts to eliminate lineage being applied. 2017 RCMP inspection report details function, purpose and classified as NR. Under comments specifically says not from lineage of any R or prohib rifle.

BRB

Back. Sorry. Phillips is discussing Giltaca affidavit. Owners aren’t confident they can purchase replacements since they keep banning more guns. Explains there are multiple versions of the FRT. the public version is a PDF and can easily be out of date, subjecting you to criminal exposure.

Bans through FRT changes months after the OIC are backdated to the date of the OIC meaning owners are exposed to criminal liability. Judge asks for clarification of this. Phillips confirms because of “variant” in the OIC, technically yes.

Court is in recess for 15 minutes

We’re back!! Phillips addresses her previous question about retroactive application. Reviews Smith testimony where he confirms guns banned by FRT change AFTER the OIC, due to the way the regulation is written.

Judge says Smith is not giving legal advice. Phillips agrees however he is the keeper of the FRT and that's what is used to determine legality. Judge argues if a new gun was made today and was prohibited under the OIC, they wouldn't be charged.

It wouldn't be sold

Phillips speaks to Giltaca's case where Coyote was banned in transit. Moving on.

Section 7 Liberty argument begins. Phillips points to case law that indicates risk of incarceration limit or challenge Sec7.

Phillips says the unnamed variants portion places Canadians at risk without knowing. Guns banned in secret. Listed on FRT which isn't live. You're exposed to imprisonment. The FRT usurps the discretion of law enforcement and prosecutors

Judge asks how it usurps law enforcement? It's the tool cops use to determine legality of guns (property) yet Canadians don't have access to real time data, the unnamed variants portion is broad and puts us all at risk.

Judge asks for an example of this happening before. Phillips responds, the determination on if it's a variant is made in the FRT. owners don't have real-time access and guns continue to be added. Both Giltaca and Hipwell affidavits confirm this. Smith too.

Owners would have to call the CFO, CFP or a retailer every day to know if there gun is banned as an unnamed variant. Cops don't get to determine legality as it's outlined in the FRT. Hipwell agrees - he consults the FRT for classification.

Brings up Macabee case, they submitted it for FRT so to claim it isn't binding is false. It's the only determinant of legality. Vague law, broad discretion by RCMP, cops would have to apply the law in the case of a prohibited firearm.

Phillips continues, points to RIAS, unnamed variants. Points to phrase in OIC where they can simply add more guns to the banned list should they become popular. This exposes Canadians to criminality. He says the public can not know if there firearm was prohibited.

Phillips says it's not realistic for owners to consult the FRT every day to determine it's legality. Most of the guns banned were previously NR, so you also get no notice. Citizens can't rely on the FRT to guide their conduct, because it changes.

The OIC also doesn't say who makes these further decisions to add more to the banned list. This paragraph also ignores what's "reasonable" and bans because it's popular. The OIC literally says more can be added as they grow in popularity.

Judge argues the RIAS is not the law. Phillips says the deliberately vague language in the OIC opens it up to overuse. An evergreen framework to ban any guns.

Phillips says this is a problem for fundamental Justice, not just individuals

Reads case law about vague law. It's unconstitutional. Vague laws do not provide fair warning, and increase discretion to law enforcement officials. These are the two principles of fundamental Justice.

Refers to case precedence on unconstitutional law. Justice Arbour found it vague and therefore void. The court has also defined what is “reasonable”. Phillips compares that case to ours. Ours is far more obviously vague.

Continues to read case law on Sec7 case. Complex, but effective.

Justice Kane makes notes.

Phillips applies the entire paragraph to our case, and the trouble with too much law enforcement vague powers

Laws that are too vague lead to excessive discretion. Goes back to “variant”. If Smith, with decades of experience can’t define it, how can law enforcement and Canadians. Becomes discriminatory.

The court must ask, “whether the term variant delineates an area of risk” - Phillips

They applied the OIC to guns that existed at the time of the OIC, but were not listed. This fatal mistake puts owners at risk.

Moves on to other case law, by Justice Fish. You may find the interpretations strange but they speak to intent and vagueness. Reviews some of the specific decisions around vagueness, specificity and precision. Phillips goes on, once courts exhaust interpretive arguments they must determine vagueness.

Phillips summarizes: the term variant does not meet the requirements for precision under the Charter.

Phillips sets out the test for Sec1 of the Charter. The government must prove a law that violates citizens rights is imperative to their goal.

Reads the case law on Sec1, government must craft a law that violates rights to a lesser extent.

Must weight the consequences of the law to the benefits of the law. Justification. The government provided affidavit from Dr Naj #CDPG, isn’t an expert and is obligated to her organization to advocate against guns. Judge asks if he’s discounting her? No. In fact we have another Dr. (Langmann).

Dismisses Naj’s assertion that firearms are dangerous. Of course, if misused, that’s not the test for this argument. Phillips points to Langmann affidavit. Langmann is not an advocate nor does he seek an outcome (like the anti gun lobbyist docs)

Reads Langmann’s resume, quotes his peer reviewed, published scientific studies on this topic, of which CDPG have none. Langmann study proves no evidence that bans deter those inclined to commit violence.

Phillips speaks to Chapman (AUS) and (missed it) from the US - both used by the government as evidence. They didn’t even try to use Canadian experts. Langmann study was not refuted by government counsel. It stands.

Judge asks about Naj vs Langmann. While both are ER docs with experience treating GSW, only Langmann is a published, peer reviewed scientist.

The conclusions in the RIAS can not be supported by the scientific evidence. There is no correlation between gun bans and reduction of homicide, suicide and mass shootings. Phillips rips Chapman’s

testimony. It's irrelevant.

Chapman's own research determined it is not relatable to Canada. Judge asks if we sit back and wait for more mass shootings? Phillips says you can not regulate based on what ifs. You can not compare other countries to Canada.

Phillips compares us to our closest neighbours, again - you can't compare to other countries. We have a Canadian system and solution.

Phillips tells the Judge if she reads any transcript, read Chapman's cross. Clearly shows his evidence should not be considered.

Phillips slams Chapman's bias. A pure advocate. Not an unbiased expert.

Watch closely. This is gonna get good ...

During cross, Chapman contradicted his own claims multiple times.

AUS suicide rates actually increased after increased regulation.

Hahaha Chapman said there was no evidence of substitution effect in suicide ... except for the rising suicides not by gun.

Like the docs, they say one thing while waving "evidence" and pray you never actually read it. Common anti gun tactics.

Chapman also said mass shootings are also caused by socioeconomic issues.

Moving on.

Phillips asks if we should suspend for the day. Judge wonders if we should inform Burlew since he left until Monday. We may be done sooner than the schedule.

Court adjourned until tomorrow (same time, same place)

Fin



Tracey Wilson ✓

@TWilsonOttawa

CCFR vs Canada 🇨🇦 - Federal Court Challenge to the 2020 OIC gun ban (and additional bans since).

Day 3 - Thread 🧵

I spoke to the clerk and think we've fixed the judge's audio

@CCFR_CCDAF has you covered

Follow along here 🖱️🖱️🖱️

Phillips (CCFR team) continues where we left off yesterday with the Chapman evidence. His mic is better today.

Shows Chapman article on screen. Shows there was no statistical significant reduction in homicide.

Rate of firearm deaths had already been decreasing prior to the legislative change.

Chapman evidence shows no significant decrease in homicide with firearm after the bill. Summarizes, AUS suicide and homicide (of all kinds) were already declining. The bill had no effect.

Details the issues with definitions. Chapman used unconventional definitions of mass shooting.

Phillips declares Chapman found correlation not causation. Judge asks about "statistical significance". Phillips says we can learn some information about that from the Langmann report.

Phillips questions Chapman's definition of "mass shootings". Langmann uses same def as FBI

Using the standard definition, there were indeed multiple mass shootings in AUS, even after the legislative reform. Chapman changed the definition to suit his agenda. Judge questions if a 5+ is more serious? Phillips confirms and points out the problem with changing the definition.

Judge understands what Chapman did. Phillips makes a clear statement about Chapman's fudged evidence.

There is NO evidence that AUS firearm reform decreased suicide or homicide by firearm. Period.

Phillips speaks to Canada's already strict magazine laws, storage and transport. You can't compare to more lax countries.

Phillips reviews testimony from another Doctor witness for the government. (Missed name).

This doctor has already had his evidence, methods and testimony rejected by US federal courts, deemed an unreliable witness.

Phillips displays court decision that discredited this doctor's opinions.

Phillips goes to the transcripts of Dr Kleevis (?) testimony.

Oops lost mic

Fixed.

The doctor has zero knowledge of Canadian regulation so when he says "assault weapons" it's in the US context (full auto)

Mic trouble again. Stand by

Ok, going back to the mic on a stand.

Phillips continues, reminds the court we should understand the doctor is referring to US assault weapons (large mags, full auto).

It's all already banned in Canada

Phillips displays 2019 article by the doctor. Directs attention to LCM (large capacity mags) focus, something already banned here. Doctor says it's the most important factor in mass shootings. Not applicable here, already banned.

Phillips reviews peer reviewed article by the doctor. It determined the LCM's are the main factor and that assault weapons bans had no effect in reducing risk of fatal mass shootings. Judge asks if there is any overlap between AW's and LCM's - no association.

Furthermore, most mass shootings do not involve assault rifles, according to the doctor. Doctor found LCM's most commonality in mass shootings. Bans on guns had no effects on reducing frequency of mass shootings or limiting victims.

Doctor found that while gun bans usually follow mass shootings, they were ineffective in reducing frequency or victim numbers.

The evidence from other countries does NOT justify the government reaction here.

Phillips produces Dr. Mauser affidavit. Mauser is an expert in criminology and firearm regulation. Mauser report found no justification for the government's ban. The government did not challenge Mauser's opinion at all.

Mauser report found Canadian license holders are statistically less likely to commit murder than other Canadians. There is no evidence Canada's laws reduce homicide or suicide. The overwhelming majority of guns used in crime are illegally held.

Mauser report ponders mass non compliance (as in other jurisdictions). Over 90% of firearms used in homicide are illegally held.

Judge asks about non compliance and the Grey market. Phillips says we can't know what will happen with people's guns who don't comply.

Phillips summarizes, after engaging the evidence, the court should find that the Canadian evidence, and the global data, shows no statistically significant reduction in homicide or suicide by gun, after bans.

Doing so goes against a free society.

Phillips moved to the sub-delegation argument. The evidence shows the only question that matters is "is a firearm an unnamed variant". The issue before the court is the sub delegation of responsibility of classification to the RCMP.

Phillips refers to Supreme Court of Canada precedent setting case on authority, discretion, and delegation of power. Under this precedent, continuing to ban guns through FRT changes is illegal. The government also decided, without evidence that these guns were not "reasonable" for hunting and sporting use.

The authority should not be delegated to the OIC. There are criminal code definitions of R, NR, Prohib - there are no authoritative powers to do anything else. They've sub delegated the power to the RCMP, violating authoritative case law.

The fundamental question is do they have authority to sub delegate?

Reads case law where language was changed from prescribing to respecting.

The whole of the criminal code should be considered.

The use of the word "prescribe" implies the GIC would be using that power, not sub delegating that power to the RCMP.

Judge asks if this argument applies to just the variants? Phillips says the RCMP are using the FRT to make determinations for unnamed variants.

Phillips explains how using an undefined term like "variant" allows for abuse of authority by the FSS. Judge challenges Phillips on determinations made by the RCMP. Judge argues the GIC isn't impeaching guns themselves, they rely on the FSS.

Phillips points out that all these guns were ALREADY classified by the FSS to be either NR or R, what changed is the OIC. The FRT now reflects the decision of the GIC not their proper designation. (This is important).

Phillips argues that even if this power could be sub delegated, it can not possess more power than the authority itself. The evidence shows the RCMP did not constrain themselves.

Phillips says the uncertainty of "variant" is too vague. The GIC has not expressly delegated it's power, but used language that leaves the door open. No guidance has been provided on what is a variant, and we see the results of this vagueness.

There is no evidence from the government that these guns are not reasonable for hunting or sport shooting. They've provided nothing. These guns have existed and been used for decades.

Phillips wonders why the government didn't list existing guns in the regulation but then allowed them to be banned later while delegating their duties and powers to the RCMP.

Phillips just nailed it.

The only evidence before the court about the reasonableness of these firearms for hunting and sporting use, is from the applicants.

Phillips says because of the lack of clarity, this sub delegation of power is beyond the scope of what they can do.

Phillips says without express authorization outlined, this authority can not be sub delegated. Judge injects, asks about competence of the FSS. Phillips says even FFS staff call classification a "lottery"

The criteria is subjective so it's varying opinions

Phillips speaks about the impacts of these decisions. Speaks to case law on delegation of duty. A decision maker is delegating their duty to someone else ... "you decide" what a variant is. Case law says this is invalid.

The GIC is saying variants or families of variants are banned but leaving it up to the FSS to decide what that even means.

Reads more case law. Points out the respondent (government) conveniently omitted important paragraphs in their submission.

The respondent carefully selected certain quotes from the case law, hoping the court doesn't read further. Phillips reads it in to the record

Citizens are entitled to know the basis for government actions. The Supreme Court has ruled on this.

Phillips relates this to the inability of the Canadian public to have proper, real time access to the FRT. An outdated PDF is a violation of our charter rights. It determines the legality of property that could put citizens at risk of criminality without knowing.

There is an abundance of evidence that Canadian citizens can't or don't know the legal status of their property. Phillips quoted the numerous applicant affidavits that show we rely on the FRT to determine our actions and obey the law.

Allowing the RCMP, FSS to make decisions without oversight and without definitions, that impacts citizens and exposes them to criminality, is a direct violation of the charter.

Court is in recess for 15 minutes

That was f*cking excellent. Big sidebar on recess with the applicant legal teams. Watch for fireworks

Man. This is so good.

And we're back!! Let's go.

Bouchelev takes the podium now.

Says he will also speak to the sub delegation. Reverts back to her question to Phillips. About the additional guns added (banned by FRT change)

Bouchelev gives timeline of process of bans. Explains that the guns that existed as of May 1 2020, but were not listed, but were later added by the FSSF. Bouchelev says that there was no authority for the FSSF to make decisions about their legality.

Sec117 doesn't give authority to the government to ban variants, only guns that are unreasonable for hunting or sporting use. The GIC and the FSSF can not legally ban guns suitable for these purposes, variants included.

Judge clarifies that a gun could be prohib, but a variant could be designed to specifically be R or NR. Therefore, a variant can not be immediately banned simply for lineage.

Bouchelev speaks to contradictory evidence provided by Smith. He said the FRT is non legally binding. It's just a tool to help cops, judges and officials. But on cross, Smith agreed that the classification decisions made by the FSSF is binding.

Judge asks for clarity on criteria, Bouchelev says there is no definition for variant in the criminal code, the binding law that guides the decisions. There are other criteria outlined like length etc. That's different.

Bouchelev reads more Smith testimony. Smith admits he has no formal legal training (to interpret the law). There is no "peer review" by a professional before these classification are made.

Bouchelev continues, reads more Smith testimony. Smith admits there are no legal staff provided to the FSSF. Smith says they don't need legal advice. Smith concedes they are indeed making legal decisions without expertise.

Smith admits that every government institution related to gun regulation uses his FRT.

Turns to Timmins (ATRS) affidavit. At the time, the AB CFO was under the control and appointed by the RCMP. Reads from the affidavit.

Timmins took the position that ok, if the FRT isn't binding, he will continue to sell his rifles. Let's see what happens to him ...

Bouchelev reads letter Timmins received about this. Letter details a series of events post OIC, where ATRS refused to stop selling rifles based on the non binding opinion of the FSSF and FRT changes.

Bouchelev continues reading. There is a list of demands to ATRS from the RCMP. They were ordered to stop selling and manufacturing the newly prohibited rifles. Bouchelev makes the point that the RCMP did not view the FRT as purely informational, but to make decisions whether or not a person is breaking the law.

These guns were not mentioned by name in the OIC, only banned later by FRT change. This proves the FRT is being used, as a binding mechanism to determine legality. Judge asks if the CFO can charge someone with a crime?

The charges would be brought on advice from the CFO. At the time the CFO was the RCMP. So yes.

Bouchelev reviews point from letter asking for buyers information, because they are not protected by the amnesty. They would be prosecuted.

Bouchelev confers with Phillips.

Continues, takes us to another affidavit from Timmins. Speaks to unnamed variants. Reads paragraph about the ATRS Modern Hunter. Timmins explains his idea when designing this rifle.

It was specifically designed to NOT accept parts from any other rifle, so as to not be designated a variant of any other gun. ATRS went to great lengths to make the Modern Hunter unique. Details technical differences.

Timmins went the extra mile to make his guns “prohibition proof”. They even used a proprietary barrel to ensure it was NR. Clearly it wasn’t designed for the battlefield. Yet it was still captured as a variant of an AR-15.

Bouchelev addresses earlier judge question about SFSS staff. Discuss Stacey Chernowak’s experience and competency. It wasn’t in question.

*I keep typing FSSF - it should read SFSS. Apologies

Bouchelev addresses earlier term “statistical significance”. Says the court should consider evidence that is “statistically significant” as meaning nothing.

Bouchelev is finished.

Phillips stands, addresses earlier question about CFO/laying charges. Reads case law about not using administrative tools like the FRT to violate rights. It’s obviously not just administrative and non binding.

Judge asks if we are moving on to other applicants

Yes.

Meehan (Eichenberg case) begins. Went old school and made paper copies of their submissions. It will also be electronically on the screen.

The documents are circulated around to the legal teams on both sides. It’s a really nice book with binding.

Meehan says they will not need their full 4 hours. Says he may be a disappointment compared to the other legal teams.

Gives long lovely diatribe and asks “is this case about firearms” or something bigger? If someone has authority to do something to someone, what is that authority?” Describes story where general society follow instructions from authority.

Asks what is the impact of these regulations? Is the regulation ultra vires? Are these firearms reasonable for hunting and sport shooting? Do law enforcement have decision making power?

Details the documents within the book. Lots of affidavits and documents from prestigious institutions and master shooters.

Begins with Eichenberg affidavit. Glosses over the details. Moves to David Bot affidavit.

Goes to Dr David Huta affidavit, spends some time bouncing through some of the information provided in this big book. Speaks to how our athletes must now train abroad because their guns used for competitions are banned here but can be used elsewhere.

Reviews O'Dell affidavit. Lost 23% of annual revenue. Millions of dollars. Bounces over to Nardi affidavit (CRAFM). \$250k worth of inventory total loss. Can not sell.

Moves to the ultra vires question. Directs Judge to Sec 84 of the CC. Reads definition for prohib.

It doesn't say "is or will be prescribed" it says "is".

It says prescribed, it has to be prescribed.

Prescribed only applies to the regulation, anything banned afterwards is invalid.

Speaks to the problems again with variants or modified versions and unnamed variants.

Cabinet power is limited to legislation. Reads case law. Is the regulation authorized by the enabling statute? Speaks to the scope of power of government. The regulation did not meet the criteria, and can not stand.

The authority says "any firearm that is prescribed to be prohibited" not if they weren't prescribed. Interesting.

Cabinet has made a past decision about something in the future that doesn't exist (future variants). This isn't good law.

He asks where does it say the RCMP decide? Where does it say stakeholder groups decide? Where is the authority?

How can you ban something that didn't exist May 2020? Banning future things isn't part of the law.

Sorry had to step out.

Meehan says it's either the regulation or the FRT that determines, so if it's not in the OIC, where is the authority of the FRT? This doesn't work constitutionally. It means the FRT is a law making document.

Court breaks for 1 hour lunch

And we're back!! Lunch was great but no coffee

Meehan continues. Asks the judge if she's got any questions.

She asks for examples of things that come into existence that are captured in the criminal code.

Meehan says the enabling statute provides the authority and the regulations have to stay within the jurisdictional boundaries and the constitution. "Is prescribed" is not may, if, etc - does not apply going forward.

Meehan quotes other case law. He says there isn't authority in the law for future prescriptions.

Quotes prior case law regarding reasonableness. Also, points on reconsideration, judicial review.

Moves on to “reasonable” for hunting and sport shooting.

Points to list of international competitions and genres that Canadian sport shooters participate in. Judge asks if these guns were used in these sports. Yes. Meehan clarifies Canadians still do but they have to leave the country to participate with AR's in these international sports.

Points to the exemption for indigenous hunters in the amnesty. Sec 35 rights. When you go to Sec 35 it doesn't say anything about the right to hunt. Some treaties do, and some don't have the right to hunt. Some treaties are silent on this.

Speaks to a Winnipeg reserve within the city limits by the airport. They can't hunt there.

Points to the 1996 SCC Badger case, rights to hunt limited to location.

Points to another decision where indigenous peoples can night hunt with lights and dogs

Meehan, if this case is about guns, and their reasonableness; any determination by cabinet that these guns are safe and reasonable for indigenous peoples, yet the very same guns aren't safe and reasonable for non indigenous peoples, is the indication on the gun, or the race of people?

Meehan continues, reads purpose of the FRT by Smith, BUT, the FRT was updated and “unnamed variant” not listed in the regulation. The FRT doesn't designate who the decision maker is. It's not parliament, it's not cabinet. Who is it?

Meehan; Smith testimony says police rely on the FRT for “formulating charges”. There is no other resource or database. Meehan asks if the executive branch doesn't have the legislative authority, do the police? And on what authority?

Smith “the definition of variant rests on ... depends”

There are 5-6 people working at the SFSS making the decisions says Smith, later he says “almost everyone” is on it. Which is it?

The NPS unit decides legal classifications.

Meehan reviews some firearms that weren't physically inspected. When looking at the evidence, how can you argue that the SFSS isn't making classifications? They are. Under what authority? Police use the FRT for charges - it's law making.

Meehan says this is about something bigger than firearms. In our democracy does someone need authority to do something that affects the rights of someone else. That's the question. And where does that authority come from?

Makes an analogy about banning some guns to banning big dogs, with no real definition of what that is. If the bylaw officer makes a list of big dogs, that's law making. Where is the authority for them to do that?

It's the same problem we have here. The RCMP lab doesn't have the authority.

Meehan; the government could have just passed legislation for this instead of OIC. That would have been the solution. Brings up the amendments G4, G46 to C21 which were withdrawn.

The problem is they did it this way, and this vague. The authority doesn't exist.

There is no written power to give police this kind of authority. There's a difference between law enforcing and law making. The FRT is the basis on which the charges are laid. They can not be in charge of classification. The OIC doesn't give them that authority either.

Meehan concludes: because nobody told the RCMP they couldn't craft the FRT and classify firearms, do they have that power? They've gone further into variants and modified versions of, and unnamed variants. It's unconstitutional.

Judge asks about the FRT, the list of the OIC and the guns banned post-OIC. Asks if there was any issue with the SFSS doing classifications before the OIC? It's the overstep that is the issue here.

Slade now to the podium (Eichenberg case). Outlines where his submissions are going.

Sorry missed the opening.

Speaks to the 70 day comment period on regulations. There was no prepublication here at all.

Points to letter from BCWF to Minister PS. Members point to vagueness. RCMP site memo acknowledges confusion over bore diameter. Surprise OIC's put Canadians at risk of criminality. The amnesty extension order included a list of issues arisen since the OIC.

Canada justified its choice of instrument (OIC) to avoid a run on guns. It had to be a surprise to the public. Koops (public safety) affidavit says it was a long time election platform, in multiple speech from the thrones, mandate letters.

So which is it? A surprise jump on the public or a long time publicly stated commitment? Slade says the ban is encroaching on guns that aren't "military style". Slams feds statements that lawful owners may divert their guns to illegal market.

When asked for supporting evidence for any of this, the government refused to provide it. Is it because the evidence either doesn't exist, or the evidence doesn't support their statements. The government received an exemption from prepublication they shouldn't have.

Slade continues; there was no sound basis for the way the government proceeded, and it was to avoid scrutiny. This concept must be considered to determine if the regulation is valid.

Court is in recess for 15 minutes

Side bar before we continue: the criteria laid out in the regulation is "reasonableness for hunting and sporting use" however the criteria they're using is the "dangerousness". That's not the criteria - this is the winning point.

Also, it doesn't go unnoticed that not one media outlet is here covering what is the largest property rights court challenge in history. Zero. Ask your taxpayer funded media why?

And we're back. Slade continues. Speaks to Sec74 registration revocation. Canadians have a right to challenge these decisions. Slade points to Alberta decision saying the OIC used "nullification" but it's the same as revocation. There is no difference.

Slade goes on; there is a statutory requirement that regulations that affect registration must be brought before both Houses. Various decisions across the country brought varying decisions.

The point is the government insulated themselves against review of the decision to “nullify”. They can not be immune to review. Judge stops him to clarify. Asks under what circumstances a reg cert would be revoked. Slade explains various reasons why.

Judge asks if they had properly revoked reg certs, wouldn't we end up with courts full of people challenging them?

Slade says it's important and our right to challenge and find a remedy. Taking something away means you have to scrutinize.

Slade moves on to the “cabinet confidence” claims by the government on all their evidence. They've provided none. It's all secret. How do we know how cabinet formed their opinions? Justice Gagne tried to compel the government and they refused.

Slade cites case law (Babcock decision). In this decision it was decided that if the government refuses to share their evidence, it's likely because the data doesn't support their position

The government must share their findings with citizens.

Babcock dictates that the court requires a decision makers decision must be fairly evaluated with an evidentiary review. Otherwise it must deem the regulation void. Gaps in evidence hurts Canada

Slade speaks to the history of privilege in this case. The only government documents produced in this case was the RIAS, even after an order from Justice Gagne. Goes through timeline of events of our case management proceedings.

Slade speaks to case law on need for confidentiality vs requirement to review evidence. This case does not meet the burden, evidence should have been disclosed. Slade points to various parts of the case law.

Our case can show a history of multiple attempts from the beginning for disclosure. The government fought it at every step. Judge asks if courts demand info in spite of claims of cabinet confidentiality, does it displace power?

Slade says there is a balance. A court can decide if it looks legitimate. A judge could determine.

Slade is going to review some of the gaps in the evidence. Koops (gov't witness) was instructed not to discuss the decision of the GIC.

Slade says Koops provided no evidence for his statements and admitted he was just repeating what was in the RIAS, not actually offering information.

Slade speaks to the objections from the government in what could be asked of Koops during cross

The government even objected to the simple question “is the OIC based on any data?”.

Objection. We all know why.

Slade continues with the problems with Koops' testimony.

Slade continues to point out the contradictions in Koops' testimony, the RIAS and the evidence. The RIAS failed to mention any of the participants who objected to the gun bans. Moving now to the government's gun ban study:

<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2019-rdcng-vlnt-crm-dlg/index-en.aspx>

77% of respondents did NOT want more gun bans. The RIAS failed to mention this. Koops only spoke about submissions that support the ban. Slade says this type of gap in the record is why the government should provide their evidence.

The decision of the government to ban guns ignored the data, ignored the voices of the majority of Canadians. The RIAS is therefore unreliable. Wants adverse inference drawn on the respondent.

Slade finishes

Bouchelev takes the podium. Addresses some of the questions posed by the judge.

Are the applicants challenging the power of the SFSS? We are challenging the RCMP's authority to make classifications, period. Ever.

There was never any instructions or directions given to the RCMP to create the FRT. Mr Smith did it of his own volition. Now it's the standard for cops. Points to Smith testimony - he single-handedly oversaw the entire FRT on his own.

Smith has access to change or delete records without oversight. The SFSS makes classifications decision, cops use it to charge people. This entire project (FRT) was NEVER authorized or delegated to the RCMP or Smith.

Judge asks when the FRT got to thousands and thousands of pages? Bouchelev says it isn't archived so nobody can ever access old versions.

Sorry missed the last part.

Phillips makes the point this OIC replaces the old one. It's all tied together.

Judge adjourns for today.

Same time, same place tomorrow.


Adjourned


Fin






Tracey Wilson 
@TWilsonOttawa



CCFR vs Canada  - Federal Court Challenge to the 2020 OIC gun ban (and additional bans since).

Day 4 - Thread 

Should be a shorter day today - I think it's just Burlew submissions for the Hipwell case

Follow along here   

Burlew approaches the podium. Wishes everyone a good morning. Says he is a lawyer in firearms law since 1998. Says he has represented over 900 Canadians. Speaks about John Hipwell, OG from Wolverine. Gives Hipwell's background.

Burlew continues. Speaks to a number of firearms owned by Hipwell. Guns he's owned for decades that he brought with him from England. Competition guns. Burlew says many of the applicants will have similar stories. They're suitable for target use.

Burlew speaks to an antique gun. Describes it, 1885, large bore double barrel. Used for African hunting. Expensive - +\$40k it's now banned (+20mm bore).

He loads his own custom ammo. This gun is famous, has been in books. Judge asks why he needs this for Canadian hunting?

Burlew says he can use it for bear. Elk and Moose too with lighter loads. It was not designed for the battlefield. Burlew says he hasn't been able to listen to the whole hearing, but wants to address the courts safety concerns.

He speaks about continuous eligibility screening. Reads the law. Speaks about prohibition orders in the CC. Is laying out the provisions within the law for safety concerns about gun owners.

Judge asks if it's similar to a peace bond? Yes.

Says when the court is concerned about a person, they can order a weapons prohibition. Quotes the criteria in Sec5 of the FA. It's a wide ranging provision. Even a single incident can trigger it, a history of violence isn't required.

Speaks about C71 provisions, which removed the 5 year limit on checks of a persons background, and made it lifetime, to birth. A fight in high school could be considered by the CFO.

If something is missed at application time, the CFO can always review.

A PAL can be revoked at any time by the CFO, for any reason. People can ask for a review within 30 days. The burden is on the PAL holder that they are safe and the CFO is wrong. Challengers can keep their guns at home during review but can't use them.

Burlew continues, speaks to C21 - says it has a lot more strength on this issue. C21 makes owners get rid of their guns. Says it's a powerful tool for judges and we should look forward to it

Burlew says he has a lot of clients all the time who've been subjected to seizures. Speaks to some of the reasons why cops can come take your guns. Says it's to restore confidence for victims safety. Says police don't need a warrant, just a phone call.

Burlew says he has a client with 550 guns seized. Says some people are apprehended under the mental health act. In the meantime, their guns are taken. Once a judge hears their history and is satisfied they can return them. The CFO can still say no.

Explains the difference between a hearing for seizure and a revocation of a license. Speaks about prohibition orders, probation. He seems to be focusing on safety framework already in place. Says every PAL holder is checked through CPIC.

Judge asks who does it? The police.

She asks which police? Burlew says it's a secret. Judge says it's too generic to say the police ... he clarifies the CFP.

He says it's required for CFP to send red flag info to the appropriate CFO.

Says forgetting a trigger lock is enough to bring criminal charges. Gives example. Provides examples how a person could innocently violate storage laws.

Burlew says we have a great safety system and owners focus on it.

Goes now to explaining how to get a license, gun. Speaks to the CFSC, gives long, detailed explanation of how you get started, the license application process, invasive questions on app, secondary review, possibility of interview with cops.

Burlew continues, speaks to license verification (C71 measure). Owners must contact the CFO to ensure buyer/seller has valid license. Stores must also go through this process, obtain a reference number. Stores must also keep records of the gun, serial, make, model. Must keep 20 years.

Says this is for tracing, for police. Details the tracing process. Speaks to charges possible. Goes now to restricted firearms. Can't buy handguns anymore due to the "freeze", but there are R rifles. R's can only be used at the range. Can't hunt with it.

Burlew continues, another long explanation about R acquisition, steps, requirements, registration, process, license checks. Cops can see everything and stop the process. The CFO issues a transfer. Buyer must obtain prior to transporting home.

Owner must then wait for registration certificate. Owners must carry reg cert to take R's to the range. Gun smiths must also keep inventory records of guns they're working on. Every gun business must maintain accurate records of every gun under their roof.

Burlew continues, speaks to CFO inspections at businesses. Speaks to collector status, home inspections, gun club membership requirements (not actually required in ON).

Speaks to range rules, log books, insurance, standards, inspections.

Burlew squares off the point, a culture of safety and oversight.

Moves on to transport regs. Describes various requirements for R, NR. Speaks to "most reasonably direct route". Can't stop along the way to the range.

Says owning a gun in is a privilege so we must maintain safety.

Burlew continues, speaks to clubs, long wait lists, new member requirements. Says he's got multiple affidavits detailing safety protocols at ranges and various shooting disciplines. Talks about RSO's, getting DQ'd.

We are safe people - but on May 2020 we woke up criminals – it's not fair.

Court is in recess for 15 minutes

#FunFact before we resume ... the FRT is the largest "book" in the world, bigger than the Guinness Book of World Records, bigger than anything in history

And court has resumed. Burlew once again takes the podium.

Speaks to supplemental affidavit from Hipwell. They're emails john received from other Canadians affected by the ban. It's important to the court. Burlew asks to put them up on the screen.

Judge obliges. Clerk helps her sort it out #techissues

Got it.

Burlew says there are 100's of these. This one is from a cop. Likens the C8 to the AR-15. Cop uses it for training. Cop is upset with the government.

Another email now, from another cop. Uses his civilian AR-15 to train as well. Speaks to the hard fought for history of Canada. Unlike service Rifle with 30rds, he can only use 5. Been the law for 30 years, since Polytechnic shooting. Mags physically limited to 5 by lab approved methods.

Burlew says when we hear from the AGC, and they say HCM, remember this law. This OIC only affects legal owners. All these emails speak to proper legal civilian use of the guns they banned. They were being used in a safe manner prior to the ban.

Burlew says people are emotional about this regulation and it's impacts. Speaks to C68. Took 3 years to pass. Speaks to DCRA use of AR's, saved it from bans then. Before C68, new gun laws had to sit with parliament for 30 days (or 60?).

Burlew continues, speaks to old case law. Yes it's 30 days. Regulations required a sitting period.

Judge asks for relevance.

Burlew goes on about the history of the FRT. Judge asks if there are any records of changes to the FRT.

Burlew speaks how the opinions within the FRT changed over time. Judge argues with him. Says we heard nothing ever gets deleted. Burlew says the FRT over-writes itself.

Speaks to a series of 8 gauge shotguns that were once deleted from the FRT.

Burlew explains that the original FRT page has the date. They change the date and you can't trace it. Judge seems unsure.

Speaks to the CZ858, Swiss Arms and their historical reclassifications. They've been moved from NR prohib NR

Burlew continues, long, detailed history of classification changes for the CZ/SA, others. Explains grandfathering. Details regulation to prevent lessening classification. You can only make it more restricted.

Judge isn't following him, asks for clarity.

Burlew slowly reviews the regulation implementation.

Speaks to SFSS deeming a gun an unnamed variant, police reliance on FRT. Charges stemming from FRT opinion are open to defending under the charter. Only the GIC has the power to deem something a variant.

Burlew says they spoke to Former PS Minister Blaney way back, about the FRT. Argues the opposite of yesterdays legal team about sub delegation.

Says only the GIC can have final say on a classification. Then it's Gazette'd.

Burlew speaks to infringement, reads the SCC definition. Says his affidavits speak to how people have been infringed upon. Says that alone is enough. Speaks about all the laws and regulations already on the books. Says the rules are sufficient. Says the OIC made us criminals.

Says the amnesty is limited in scope and time. Talks about how owners have owned these guns for 3 years under the amnesty and maintained safely.

Asks why it's necessary to make Hipwell and other people criminals.

Asks why cabinet didn't use another method to ban these guns with less risk to owners. Says registration and licensing should be enough to protect the public

Says this ban doesn't protect the public. Says Hipwell is "grandfathered" for other prohibs. Says he's allowed to keep those. Argues for grandfathering.

Finishes.

Judge asks Generoux if she can go today?

Burlew finished 3 hours ahead of schedule. Generoux asks to adjourn and come back Monday.

The AGC wants to start Tuesday.

Judge sides with Generoux.

Court is adjourned until Monday morning.

Happy weekend tweeps!!

Fin



The long awaited submissions from self rep Generoux are about to begin.

She takes the podium. Judge tests the technology.

Generoux wishes the judge good morning. Explains she's just an average citizen

She speaks to the academic fraud in the RIAS. Speaks to the barriers for legal gun owners, the abuse of the pandemic to do the OIC. Speaks to the cost of these matters. Says she's sacrificed a lot to be at this table. Respects the power of the courts. Thanks the other legal teams for their support.

Speaks to the linguistic art of the law. Explains she's learned a lot through this process, wants her life back. Says her concern is genuine. Speaks to her heritage, culture and values. Can't sit idly by and watch the destruction of Canadian gun culture

Says common law is very precise. Will be sharing her findings with the court. Judge reminds her to speak slowly.

She assures the judge she will go at her speed.

Generoux details the road map of her arguments.

Speaks to the protections under the law for one's culture. Lays out in the literature how she will make that argument. Says it's a CC offence to attack one's culture.

The law in Canada protects our culture and activities. Speaks to the integral role the firearms community plays in Canadian culture.

Speaks to cultural property, firearms ownership and usage are vital to Canadian society. Says the legal rights of our community are protected under the law, details various laws that reflect this.

Speaks to the legal obligation of the GIC to protect firearms users

Speaks of the benefits our culture brings to Canada. Speaks to exemptions for international competition use of prohibited firearms. Says the SCC defines gun control as licensing and bans the measures, not gun bans. It's to protect the legal use of legal firearms.

The RIAS has prohibited our guns based on ability to murder not their ability to serve their intended purposes. Speaks to withdrawn amendments. Says the government does intend to ban all or most firearms based on their descriptions.

Speaks to large bore firearms used in the North.

Generoux speaks to the intended vague and arbitrary definition of "assault style" is to destroy our culture. Speaks to the malicious words of the government and media. Says this is culture genocide of her community. Speaks to the broken bargain of gun ownership.

Believes the GIC did not meet the test of what is reasonable or not. Says the GIC has made a mistake, committed academic fraud, fudged crime numbers. Judge asks about her comments on the definition of "crime gun" and how the government changes it.

Nod to Mauser and the late Dennis Young. Speaks to the traditional definition of crime gun and how Canadian cops changed it to include found guns, non violent paper offences, etc.

Judge asks if the definition of crime gun appears in the OIC or the RIAS

Generoux continues about the fraud committed by the government, untrue statements about public safety.

Speaks about the inconsistent messaging about reasonable for hunting.

Takes us back to when the AR was non restricted. The 1996 opinion dictated it had to be consistent. Wants negative inference to be drawn due to lack of evidence.

Says the reclassification violated our rights for due process (OIC).

The FA says guns are property. Quotes case law, regulation of culture and property. They must follow due process. Feels the GIC has violated this, speaks to the nullifications and denying Sec74 challenges

Speaks to the contributions made by the gun community.

The RIAS doesn't cite any benefits to this gun ban. Says the OIC is operating in vagueness and is meant to imprison her people. The OIC will cause harm to us by removing our ability to hunt and defend. Says her psychological security has been damaged.

Generoux says the OIC violated our rights, nullification of our reg certs means we can't prove we are the lawful owners. Speaks to Sec8 of the charter. Says our property is essential to Canadian history. Believes owners are discriminated against.

Says the government had no business breaking the agreement with gun owner who follow the law.

Speaks to some case law about culture, property of one's culture. Says some other semi autos operate the same and are not banned.

Speaks to the Montague case, self defence. Speaks to the national hunting, fishing and trapping act. Speaks to her mini 14 ranch rifle she uses for hunting small game. Doesn't even own an AR. Says the charter should protect our cultural rights and property.

Says gun owners are half as likely to commit murder than other Canadians. Says this is discrimination against her community and culture. This OIC and the rights it violates is unjustifiable.

Moves to individual arguments

Speaks to laws protecting cultures, everyone is equal under the law. The government attests to protect multiculturalism yet discriminated against the culture and heritage or owners.

Speaks to the acknowledgement of respect to ALL communities and cultures, past present and future.

Our community has the right to mature and grow, not be discouraged or discriminated against by the government.

Speaks to international law, UN declaration of human rights, and its protections for cultural rights.

Lists multiple articles that protect Canadians culture. Cites affidavit from Allan Harding. It's the government's duty to protect the culture and property of sport. Quotes ON government definition of culture, and it's protections. Says promoting our culture and sport is good for a healthy society.

Says our cultural diversity tells the story of our shared history. Cultural oppression is damaging to the culture itself and the community. Says this is bigger than one person, we are connected by our community and culture.

Culture is so important that the CC protects it. Details the parts of the law that protects our people's culture and property. Says the government has committed mischief against our culture and citizens. Likens our property to other historical items of importance .

Quotes the CC and the fraud committed by the government in affecting the market in our industry. Says the OIC has affected the international market. Judge asks for clarity. Generoux speaks to the affect on the GDP, small businesses.

Says the government doesn't keep national data on crime guns, yet Mauser got it? They have it, they just don't release it. Says they do have the data on PAL holders and crime but bury it like they do racial crimes by police.

Generoux says the government has produced no evidence that legal owners commit crime or mass murder. Judge argues Stats Can is the government yet Generoux points out they don't release the data - this is the fraud.

Speaks to Cabinet confidentiality. Says the government asked for an extension to provide data, blamed Covid. Justice Gagne compelled the government to provide. Then the government claimed cabinet confidentiality. Says this is false, they never intended to comply.

Gagne demanded the evidence in 30 days and only then did they claim cabinet confidentiality. Says the data in this case would have been public information and exempt from cabinet confidentiality.

Back to cultural protections.

Generoux speaks to the purpose and objectives of sections of the CC, charter, case law to protect culture. Makes example of other cultural practices that hurt or don't hurt people.

Speaks to the importance of protecting indigenous culture, but what about her culture?

The case law states that all cultures, societies and associated property should be protected and distinct.

Says lawful, safe use of guns in Canada goes back over 150 years. Judge asks how the culture is diminished by the OIC

Generoux says anti gun groups and the government have been clear they want to ban all semi auto. Says her co-applicant is licensed for prohib, and agrees they are not suitable for hunting but now they are coming after common, modern semi autos.

Says the chipping away of what we can own is diminishing her ability to participate in her culture, hunting and sport. Reads a case law definition of cultural property. Says property can be regulated but not eradicated.

Speaks to the obligation under law, to protect culture, citizens property. Says the government should be working with owners and their groups to ensure public safety, something we all want.

Rights are tied to a community's culture.

Moves to the dictionary definition of culture. Reads aloud. Goes to the government definition. Shows how the things we use to participate in their culture are also protected under law.

Generoux speaks to the 2 main components of gun culture in Canada.

Speaks to an academic study on gun culture. Reads a passage defining what guns mean to the people who use them. Quotes Chapman's comments about advocates, be compared them to lobbyists and rednecks.

Judge asks if gun use is simply a personal choice. Asks if it's engrained in us at birth? Generoux says she got her first gun from her mother. Says her guns, hunting and sport is vital to her personal identity. Judge asks if she's comparing herself to an addict. Giggles around the room.

Speaks to case law about "choice". Argues Canadian gun culture enriches our lives. Speaks to the benefits to young people. Makes reference to various studies, NRA. Only 6% of American gun owners belong to the NRA.

Speaks to various firearms publications in Canada, which contributes to our culture. Reads from a study, reduction of ownership in the US. Speaks to how bans affect the culture of the people who participate. Says the states with the most restrictions have the most advocacy.

Continues exploring the relationship between owners and their property and its importance to their culture. Shows how owners are politically motivated because of the attack on us. Demonstrates how globally, the more regulation, the less culture.

Speaks to regions of Canada with a higher rate of gun ownership. Says the claims of mere presence of guns in a home increases risk is false, shows evidence and data to support her. Nails it.

Speaks to her historians affidavit. Says gun culture is inseparable from Canadian culture.

Says our culture and our history has always allowed for use of the most modern firearms. Someone's phone rings - judge frowns

Speaks about the importance of modern firearms, our well developed gun culture of safety.

Historian evidence details the historic significance of firearms, their evolution and uses. Shows some historical Canadians and their firearms of the time. Speaks to how guns improved aboriginal lifestyle, improved hunting. Demonstrates how Canada's people, of all stripes have benefited from guns, historically.

Speaks to history of disarmament. Canada was founded with guns in hand. Has Canada forgotten the importance of modern rifles? Shows historical children's book, 4/5 people holding a gun. Demonstrates how guns have always been on greatest importance to Canadians.

Speaks to original people wolf hunting. Cartridge firearms became popular in the 1870's. Shows more historical examples of firearms ownership. Speaks to the importance and pride of ownership in our culture. Shows more modern examples of clean Canadian gun culture.

Generoux says she's here because her own hunting rifle was banned (mini 14). Speaks to the English bill of rights - says it gives her shivers. Reads aloud. Says we aren't asking for anything crazy - her rights are being eroded.

Reads from the US militia act - more historical examples of the importance of guns, gun culture.

Asks if we can break?

Court is in recess for 20 minutes

Side bar: there are noticeably more people here today. Generoux has a nice entourage of loved ones, all teams but Burlew (Hipwell case) are present too. Alberta intervenor bench has also increased. Government has a few less on their massive team today.

We're back. Generoux continues with the history lesson. Gun ownership was created by the government, and for good reason. Speaks to the DCRA, Shooting Federation of Canada. Speaks to international competitions, modern Olympics and yes, the militia.

Speaks to champion shooter getting the order of Canada. Reads from statement from affidavit re DCRA relationship with National Defence. Overton summarized the history of the DCRA, service members. They can use full auto, big mags. Instruct civilians with semi auto.

Speaks to the training that police and military also shoot recreationally. Judge asks if they didn't have private guns, would they have less training. Yes

Speaks about how ranges are affected by these gun bans. Less range space means less training. Reads from Overton affidavit and militia ties. Speaks to the importance to marksmanship of semi auto. Skills are transferable, the firearms are not.

Reads from Webber affidavit regarding Bill Blair consultations. Says participants discussed how a ban wouldn't benefit public safety, but would harm personal security. Says these competitions between civilians and servicemen improves our military ability.

Circles the conversation nicely about civilians and their use and our relationship with law enforcement and their training. Civilians fund the facilities for law enforcement and military training in most cases.

The evidence shows these people are highly trusted and contribute to national security.

Points out notable positive government propaganda, showing semi auto guns are rich in our history. Says using handguns is part of our history and heritage. Provides historical court evidence. Shows historical marketing materials and government ads.

Says Ralph Blake Brown confirmed this, our rich, government encouraged semi auto gun culture. Speaks to Canadian war heroes who shot as children being the most proficient. Provides historical evidence that those who shot at home were better marksmen.

Shows old service records of famous Canadian marksmen. Hunting as a child and moving on to sport shooting shows a marked improvement for soldiers ability. Says more of this history of gun ownership should be taught.

Many soldiers relied on their personal experience to protect the troops. Speaks to the culture of safety and self reliance matter to Canadians. Shows tons of historical evidence of gun culture and its benefits. Canada's most decorated war hero's survived because of their previous gun culture.

Soldiers from other countries with less or no gun culture failed miserably. Military, law enforcement and conservation officers have testified to the importance and link to gun culture. Lists national shooting organizations.

Details the detrimental effects of this OIC on our community, culture and people. For the first time, all these organizations have come together to fight this.

Makes note of time. Speaks to the private guards who used their own arms to defend the west coast.

Makes reference to the lack of troops, equipment and training for our military. True then, true today. Makes reference to Koops testimony and refutes his position that cops are being killed by these guns.

13% of cops don't pass their re-certification.

Judge asks if cops would be safer with more guns in civilians hands, not less. Generoux quotes police evidence and statements showing this. Says removing these guns from Canadians is the danger to public safety.

Quotes statement from law enforcement saying they require the training and range space offered at civilian facilities. Speaks to the shortcomings of our military, even now. Speaks to the number of reservists who are deployed.

The cupboards are bare in the army. Reads from reports detailing military shortages. The entire budget for re-certification is \$200k. Says the ban will reroute precious police resources. Quotes NPF statement (RCMP union).

Judge and Generoux debate police chiefs appointments, police or political? Both really.

Generoux says the police on the ground don't support this, the bureaucrats do. Rounds the point that Canada is a safe country and the trouble is illegal guns.

She continues, speaks to the NS shooting, illegal guns used. Goes through statistics on crime guns, gang violence. Says many crime guns are already prohibited. Scoffs at terms like "sustained rapid fire" term used by government.

Reads statement from law enforcement demanding a focus on smuggling, lack of data. The OIC and buyback will not address the urgent threat to public safety of crime guns.

The OIC diverts resources away from the criminal use of firearms.

Law enforcement support evidence based controls like licensing but not bans and buybacks.

Generoux reads from Bernardo affidavit. He confirms we are a culture, safe and reliable.

Bernardo says organizations were invented to formalize the relationship we had with guns as young families. Bernardo totes CSSA insurance, clubs are required to having it.

Speaks to charity work done by firearm shooting events. Bernardo names a variety of events, many CCFR related.

Generoux moved to Keijko affidavit (Olympic handgun shooter). Speaks to the culture of safety and sport empowering her. Mentions personal growth, pride and the feeling of representing her country on the world stage. The government recognizes the importance of sport and culture.

Points out Keijko was vice chair of CFAC, until it ended. Reviews low incidence of injury in the shooting sports compared to other sports. Scoffs at the idea this ban is related to public safety. Shows photos of Keijko and Harding, both national team athletes.

Harding goes on to explain the experiences of traveling the world shooting. Naustrus was a flag bearer for Canada at the Olympics. Speaks to CCFR community work, describes High River put owners at risk because guns were grabbed.

Details how the CCFR offered safe storage to families fleeing flood waters. Details long list of community and charity work done by organizations, ranges.

Moves to Gregory Allard affidavit (Pink Pistols). “The gay NRA”

Allard speaks to the benefits of being a part of our gun culture. Moves to Jordan Marsh affidavit, youth silhouette instructor. Speaks to the benefits of our community. Shows pics of children participating in shooting events. Speaks to disabled shooters.

Judge intervenes, asks if she’s going to read every affidavit. She’ll shorten it up.

Reads from the Giltaca affidavit and how our community is impacted by the regulations.

Moves to Ryan Steacy affidavit-former CAF, champion marksman.

Now on to Matt Hipwell testimony. Reads positive message about his training and community experience. Shows how personal, private firearms experience has enhanced the ability of cops, soldiers.

Skips over to summarize - tons of affidavits, lots of generational evidence about our positive, healthy gun culture.

Generoux says it’s not just the indigenous people who should have a right to their cultural identity. Reads from 2017 Chief Bear testimony at SECU.

Reads Goodale quote, about redirecting gun owners.

Quotes Trudeau who said he grew up with guns and that the shooting sports are Canadian.

Reads from Chapman testimony showing ownership of guns is part of our heritage and tradition. Since the 1500’s guns played an important role in the development of Canada. Shows evolution chart for guns.

More modern firearms are safer for use, and Chapman agreed. Moves on to Brown affidavit and testimony. Details clever trick questions she posed to Brown. Shows he’s not impartial. Brown only had one Canadian owner review his book on gun culture.

Shows how Brown admitted that gun control has been used for discrimination against minorities.

Brown’s book detailed the long history of marksmanship and hunting in Canada. She reads a passage.

Computer dies. Asks for lunch break.

Generoux says she’ll use her full 4 hours but not more. Judge asks teams if they’ll be making closing statements. Only Bouchelev will.

Court is in recess for 1 hour for lunch.

And we are back. Generoux continues. She’s got about 1.5 hours left.

Speaks to the Canadian cultural import and export act. The act gives the GIC power to make a control list to preserve historical and cultural property.

There are some exceptions for the control list, and there are rules about what can be exported. Military objects have a section on the list. Small arms, cannons and artillery are included. Noticeably, there are no rifles or shotguns listed in the OIC of a military nature.

Generoux says Canadian soldiers and their collections are the main contributors to museums. Judge asks relevance. Generoux says firearms are integral to the cultural history of Canada and can not be destroyed. Speaks of the importance of these items.

Says Brown was asked if anybody has been killed in Canada with a legally owned sniper rifle, cannon or AR-15.

No, none.

Moves on.

National Hunting, Fishing & Trapping Act. Speaks to the significance of our contribution to the economy and the country's history.

Her mic dies ... stand by

She continues with stand mic. She speaks to the government's suggestion we could just use some other rifle. Speaks to the energy created by semi auto vs single shot. The hunting regulations are in contrast to government witness.

Generoux says the test isn't minimum requirement, but what's reasonable. Judge and Generoux argue what's reasonable risk vs wounding an animal.

Generoux glances at the clock ...

Moves to the RIAS.

Generoux refers to benefits and costs section of the RIAS. There's a bunch of stats detailing the number of people participating, GDP contributions, etc - there is nothing on the benefits.

Says she isn't actually here over her \$500 gun. Says they banned her hunting rifle because it's "deadly". Of course it is. That's the point.

Speaks to the government's refusal to define "variant" because manufacturers will "get around it". So they'll comply? What's the problem? Argues vagueness of the term and how it puts Canadians at risk.

Mic problems

Speaks to the technical definition in the law journal of cultural genocide. Reads it aloud. Applies it to our community and our property. Speaks to the problem of our heirs not being able to inherit our guns. Reads testimony.

Reads statements from people who have been impacted. Talks about how if she can't own modern firearms she is done in competition. It's over. Millions of dollars wouldn't compensate her for the loss of what this community and sport mean to her.

Brings up C71, the CZ858, Swiss Arms. Brings up testimony from SECU. Speaks about how a year before the OIC the government said they wouldn't prohibit the AR. Brings up Koops flip flop testimony on grandfathering.

Says if gun control went through parliament instead of an OIC, it would be more fair to the public. Judge and Generoux debate the prescription requirements for prohibiting.

Generoux mentions the “chart of arbitrary” she made for Smith.

BRB sorry

She points to affidavits to demonstrate this whole thing is meant to destroy our culture and reduce its participants. Speaks to evidence where prohibitionists complain that PAL numbers were going to high.

Draws a direct line between the anti gun advocates and this OIC. Shows how government funds the anti gun lobbyists to lobby them for prohibitions. Says just because she owns a Mini14 doesn't mean she's responsible for killing 14 young women. We don't treat anything else this way.

90%+ of firearm related crimes are from smuggled firearms. Speaks to “grey guns” - guns in peaceful but unlicensed possession. Says people were fearful of licensing and registration because of risk of confiscation, and here we are.

Makes the “backyard pool drownings” argument.

Moves to Mauser and Langmann evidence.

Mauser study: # of homicide guns traced to licensed owners = 9%

13 out of 2.2M owners

A unlicensed adult male is 3x more likely to commit firearm homicide than PAL holder

Judge asks, the OIC is regulating the guns, not the people. Generoux says the OIC, media statements and politicians unfairly target RPAL owners. Points to the Giltaca affidavit - lack of credible research on the whole issue.

Fewer than 2 Canadians are charged with “straw purchasing” annually.

Mauser says the government's math would never pass a peer review. Points to the overwhelming evidence from our side, academic methods. Calls the government's witnesses academic frauds.

Moves to Chapman's cross. Reads the absurd statements he made about being an advocate. That there was a brief window to exploit. Says Dr Naj wrote a paper on how to exploit crisis. Reads propagandist statements from firearm abolitionists.

Details series of outrageous tactics commonly used by anti gun activists, “strategic research”, how anti gunners misrepresent their own research. Chapman calls anyone who opposes gun control, his enemies and lobbyists.

Chapman admitted he can not contribute a decline in homicide and suicide to gun control, yet lied in his affidavit. Calls him dishonest.

Judge and Generoux bat around causation and correlation.

Generoux says that using fraudulent evidence to confiscate our property is dishonest and unethical.

Judge asks for a brief summary of what she wants her to take away.

Says the government failed to meet the burden of proof that these guns are not reasonable.

Generoux concedes to Bouchelev.

Phillips interjects - provides the study Generoux relied on for the judge, by Chapman. No correlation was found.

Bouchelev now

Bouchelev begins (can hardly hear him). Details what the applicants want in this case. Declaration the OIC is void, declaration there is no authority to delegate duty of classification, declaration the FRT is not a legal instrument.

Judge asks what he wants because the FRT already exists. He wants it declared that all illegal classifications within the FRT are voided. Wants variant defined. Judge and Bouchelev go back and forth on named variants and unnamed.

Bouchelev says if the term variant is not defined, it leaves the RCMP open to further classify whatever they want. Says these arbitrary classifications = legal decisions by the SFSS, they have no authority to do that.

Says he wants a declaration that the guns listed in the OIC, and its variants, be deemed reasonable for hunting and sporting use.

Judge asks why she would be the one to do that, and not the GIC? Bouchelev says the evidence has been pretty clear.

Even the government's own witnesses have said many of these guns are reasonable and commonly used. What we haven't seen is evidence to the contrary. There is no evidence.

Says there must be adverse inference in this case.

Bouchelev moves to C21 - says the withdrawal of the amendments is proof that legislation not regulation is the appropriate mechanism for this type of reform.

Government lawyers object - he's referencing a bill before parliament that is not part of the filed materials.

Judge says C21 isn't related to this matter. Bouchelev argues that the amendments that were introduced to C21, are indeed tied to the OIC because it would have enshrined the ban in legislation.

This demonstrates the government knows using an OIC was wrong.

Bouchelev shows that the government has now tried to legislate the ban, and failed. Judge says it's hard to consider things that may or may not happen in the future.

Moves on to final point.

Bouchelev speaks to the parameters of what the enabling mechanism allows the GIC to do (reasonableness determination).

The law says you can't use an arbitrary process to determine what's legal or not especially when criminality is a risk to citizens

Alberta asks to go in the morning instead of today. Government lawyer agrees.

We will adjourn for the day then.

Court is adjourned for today.

Fin



Pfifer (AB AG) takes the podium and begins. They have only 20 minutes so they'll be brief.

She says words matter - the constraint placed on the GIC must be respected

Says we have a constitutional problem.

Says this isn't about policy or whether it's a good or bad decision, but is it lawful.

Decision makers must follow the law.

The court must determine whether the decision was rational and the rationale was reasonable

The GIC is not exempt from administrative law.

Quotes case law (greenhouse gas). Any regulation that is made must be consistent with the statute and its purpose and within scope of that statute.

The SCC determined this may be ultra vires and open to judicial review

Quotes a Sec from CC. Judge asks for clarification. Even if the OIC met the objective, it must comply with the delegative authority. Failure to comply = ultra vires

The GIC must form an opinion if the thing to be prohibited is reasonable for hunting and sport use

The only record from the decision maker is the RIAS. No other evidence.

Moves to the enabling provision. Parliament is known to master language and be clear and concise.

Points to the government response on Alberta's position. Says it's Alberta's submission that they should have been guided by the CC. While public safety is the intention, they can not override the enabling provision.

The government can pass regulation while respecting the provision. If we accept Canada's position, it means the GIC can prohibit anything even if it is reasonable for hunting or sporting. Unlimited discretion.

There is no analysis contained within the RIAS to explain the determination they are not reasonable. Parliament must respect the legitimate use of firearms.

Points to the debates on C68. We have an express acknowledgment that words are important to the legislative regime.

Ignoring the words of the statute can create mischief and problems for federalism.

On hunting specifically, there are provincial laws on what can be used. Some of the guns affected have already been deemed reasonable.

When asking what's reasonable, it would be reasonable to consult the provincial laws. If the court accepts Canada's assessment that they can prohibit anything without evidence, we have a serious constitutional problem.

Concedes to her colleague.

Name?

AB says it is a delegation of authority and must be quashed. Raises the issue of a definition being made entirely at the discretion of the executive.

Says with the stroke of a pen, the GIC criminalized thousands of Canadians without an act of parliament.

Says a buyback program requires public funds, which requires legislation. You can't prohibit by OIC and do a buyback.

Says Canada will say they have no limits on their prohibitive powers. Outlines the restraints on that power.

Says we are in an era of robust judicial review. Parliament never intended there to be unfettered power. Judge seeks clarity.

He says there wouldn't be a restraint if that was the intent. He's here to defend the constitution.

Says the AG quotes many cases but he says none of them go this far. Says the AG left out pieces of the quote for the case law. Alberta says there are constitutional limits on the government.

Speaks to the case law (Cote decision) about unconstitutional delegation of power.

Alberta reads the decision about delegation. Speaks to the rules of administrative law. Says the government contradicts themselves. Alberta says there is a trade off, the decision is subject to judicial review.

Judge asks for summary of Cote's decision/relevance

Speaks to the rule of law, separation of powers. Says the decision shows limits to delegation of powers. Says the idea that anything can be banned, at anytime for any reason means unconstrained delegation of powers .

The decision says the legislature is the best place for debate and decisions. (Legislation over regulation).

The GIC avoided scrutiny by avoiding prepublication. There was a lack of judicial review by hiding behind cabinet confidentiality.

Says what we have here is a regulation that criminalizes gun owners without an act of parliament, violating the rule of law, the separation of powers and finally, the constitution.

Thanks the judge for the time.

Alberta is finished their submissions.

The judge calls for Mr McKinnon from the government's massive legal team to approach.

He takes the podium.

McKinnon begins. Says they've divided their arguments to respond to the various applicants.

Gives a summary of how they will respond to each issue.

Says they will present how the applicants witnesses should be given no weight.

Asks the court if they can go beyond their time to debate new arguments from the applicants.

Refers to Eichenberg case - what is this about? Says removing these particularly lethal semi auto guns from the market targets the guns not the owners. We can still hunt and sport shoot, just not with these guns.

Says some of these were previously R. Quotes variety of mass shootings in Canada and worldwide. Says these kind of guns have been used there for mass shootings. Says parliament wants to prohibit them for public safety.

Says since the 90's the gun industry has made new models that escaped being banned previously. This is just an update and closes loopholes. These terms like variants are not new. Owning a gun is a privilege and the OIC only affects a few people.

Says the GIC acted reasonably when enacting the OIC and it's not ultra vires. They formed an opinion that these guns increase the severity of mass shootings. While they may have been used lawfully before, they are not reasonable to use anymore.

Says the RIAS demonstrates that. Says the GIC did not delegate their authority. Says the RCMP just provide technical advice and the FRT is not legal or binding. Says there is no breach of the charter at all.

Says the terms are not vague and the industry knows them well. They market them as modified versions. Says the bore diameter stuff isn't vague either. The regulation just provides guidance. Says there is no inverse inference. Everything is fine

AG (attorney general) - will focus on evidentiary record. Begins with Canada's witnesses. Says Ralph Blake Brown addressed the historical element of the OIC. He said they were in line and proper. Says Koops (Public Safety) gave evidence of the evolution of regulation.

Says Koops testimony wasn't meant to bolster the RIAS. There's nothing wrong with him using cabinet confidence. Says Smith is a scientist - says Smith was accepted as an expert despite 3 objection motions.

Baldwin is a wildlife manager and says the guns banned aren't necessary because there are other choices.

Says Dr. Naj has treated GSW's and her views are mainstream while Langmann's aren't.

Says Chapman says the ban in AUS correlated with reduction in mass shootings

Says JAMA is the preeminent publication and Chapman is accredited.

Speaks to a correlation between assault weapons and mass shootings in U.S. says during the AW ban they went down.

Turns to the applicants evidence and testimony. Says our witnesses aren't partial or independent and should all be rejected. Says they will show how we can all be discredited. Says Mauser is tainted.

Says Langmann is way outside his area of expertise as an ER doc, but Naj is fine. Says Matt DeMille from OFAH is not independent. Says Bader speaks without being an expert. Says O'Dell hasn't been accredited as an expert either and lacks objectivity.

Says Miller and Cunningham (Milcun) are not experts either. Says there was no need to cross examine our witnesses. They aren't relevant. Smith addressed Bader's, O'Dell, and Baldwin addressed Parker, Giltaca, Shockey and Hipwell. Discredits them all.

Speaks to the CC and firearms classifications. Says the CC allows for the GIC to decide. Says if it's in the opinion of the GIC they aren't reasonable for hunting and sport, that's all that's required.

Quotes Allan Rock's statements. Says they used OIC's to prohibit before. Shows a historical of how many guns they've banned over history. Says nobody objected to these other historical bans. That's telling.

Quotes Ralph Blake Brown - says OIC's have banned guns commonly used for hunting before. Language has changed from commonly used to reasonable to intentionally give government more power, not less.

Says previous and current bans have banned variants and modified versions. It's normal. Goes to Smith testimony. Says variant and version are widely used terms and accepted.

Moves to Giltaca testimony - Rod called an AR a Lego gun, you can mix and match, customize. This was in a YouTube video. Says the customizations Giltaca speaks about means they're variants or versions.

Goes to Koops affidavit. He worries defining the term variant will help manufacturers find loopholes. Goes to Bader definition. Smith says Bader definition only the heads of each gun family would be captured, not all the semi auto versions.

Says variants can be named or unnamed. Just because a gun isn't listed on the ban, doesn't mean it shouldn't be banned

Goes to Chernowak affidavit. Says they dispute the views of that technician. Says it isn't a "lottery" when determining what's banned.

Goes to Smith testimony. Speaks about Turkish shotguns. Says the regulations "cleaned up" any questions about exceptions.

The CFP oversees gun ownership. The SFSS employs technicians. They are not police. The FRT is just a database.

The FRT has over 200k unique entries. There's lots of guns out there. The SFSS just assesses variants. Smith explained how they make these decisions. Proximity of design is considered. They also consider manufacturers marketing descriptions.

AG says Smith didn't contradict himself when being cross examined by Bouchelev. Says there are approx 700 variants of the M16 alone, in the FRT.

Says there have always been unnamed variants in the FRT and didn't seem to be a problem

Mentions how Burlew agreed the FRT is just an opinion. Smith says people can simply request a review of an FRT entry. (They have no obligation to allow this).

Says gun ownership is a privilege with the responsibility to check the legal status of your guns.

Even though citizens don't have access to a live FRT, they should be responsible for finding the legal status - you guys get that??

Wow

Says businesses can access software, people can download the PDF or just call the CFO.

Judge wants to know if people can call anonymously to avoid self incrimination. He doesn't know.

Asks for a break.

Court is in recess for 20 minutes

And we are back. Government lawyer (calling him AG don't know his name) resumes the podium.

AG moves to the most recent gun control regime. Details 2015 forward Liberal promises. Speaks to the 2018 Engagement summary.

Supporters of the ban: lists a variety of groups that support gun bans. A majority of respondents were opposed to the gun bans. Says the results were skewed by gun owners answering. (Why should they have a say). Judge says ok, so 50/50 gun owners/not - he says only 6% of Canadians are owners.

Discredits letter from unnamed police officer. Discredits National Police Federation opposition to bans. Says the chiefs of police opinions are ok.

The OIC prohibited 9 families of guns, prohibited certain guns with big bores, big joules.

Says the RIAS is clear. Explains assault style is a fine term. Simply used to group guns. Says the applicants saying the OIC guns aren't real assault weapons because they're not full auto should be dismissed.

Says in the Cunningham affidavit, statement from the DCRA says the AR is the semi version of a C8. So it must be a variant.

Says the deadly mass shootings are committed by ASF's. Repeats list of worldwide mass shootings.

Says these guns are unsuitable for civilian use and are more deadly in mass shootings. The RIAS is guided by the safety risk of these guns. Repeats the criteria to be banned. Says the GIC assessed the risk of these ASF's. Owners were notified.

Judge asks for clarity on "modern firearms". He says he means recent. Asks what's the difference between actual assault rifle ban of '78 and this new ban? How do the guns differ? He admits the first ban was full auto. This ban is semi auto.

Moves to the notice given to owners and businesses. The PM announced, mail was sent, letters sent to businesses. That should be enough for widespread knowledge. Everyone should know.

Judge says not everyone got the letter. AG says the community talks about it and its owner's responsibility to figure it out.

Moves to amnesty: protects citizens against criminality, allows indigenous hunting. The amnesty gives time.

Prohibition by make and model: the OIC and the RIAS state that the GIC deemed all variants unreasonable.

Goes to Smith affidavit. Literally brings up scary black gun photos and scrolls through them on screen while he talks. Says the FRT reclassifications aren't still happening. Last one was June 2020. Only 2 since then. A big bore shotgun and a big joule rifle.

Judge asks why it took over a month to find more to ban. AG doesn't know why. Judge says between 1996-2020 we didn't ban guns. AG says we had a growing problem of mass shootings during this 30 year time

Judge calls the FRT a "beast"

He says the regulations didn't keep up with new guns being developed.

87% of variants are named, only 13% banned by FRT reclassification.

Speaks to the ATRS Modern Hunter - reads 2017 FRT for it. It was NR. Moves to statement about its design uniqueness. Moves to 2020 FRT for it. Smith explained it was a variant of AR10. An AR10 was NR in 2017. So it's consistent that it was banned in 2020, AR10 and ATRS.

Judge asks about FRT reviews. Asks where it says people can challenge it? He doesn't know but it has been done before.

Mossbergs now. Goes to comparison of 715T and AR15. Says they share accessories and it was marketed as similar to an AR15.

Says manufactures design them with AR likeness. Points to Smith affidavit on this.

Moves to Giltaca statement that he can't buy guns for fear they'll be prohibited. Says Giltaca admits he owns other guns he can use.

Turkish shotguns - Smith says they were prohibited because they appeared similar to AR15 in design.

Speaks to Yukon conservation officers purchasing ASF's. Says ASF's are expressly permitted to use them, hunters aren't.

Says applicants arguments about capacity are void. Lawyer admits mag restrictions haven't stopped mass shootings and says they must be combined with bans on guns with higher capacity.

Points to 2010 Friedman interview, he said mag caps are easy to circumvent.

Brings up CCFR policy on mag caps. We said they serve no safety purpose. Canada submits they support the opposite, mag caps aren't enough so we must ban over capacity guns too.

Klarevas said there was an 18% reduction in deaths after banning large capacity guns.

Bore diameter: Smith submits it's determined by the size of the projectile. Smith says guns with +20mm bore are cannons, weapons of war. Smith says owners can look at the calibre stamp to determine bore. It's industry standard.

Says it's easy to determine by looking at the gauge of a shotgun. If gauge is below 10 it's larger than 20mm bore. Smith also says owners can consult manufacturers website. Says the choke should not be included in the measure.

Says the bore diameter argument is a non issue. Moves to 10k joules argument. Says most guns don't have that kind of energy, just military sniper rifles and anti tank artillery. The determinant is again the projectile. Owners can get this info from the manufacturer or retailer.

Says you don't require 10k joules to hunt a moose or bear. There are alternatives. Judge asks about sufficiency. He says Baldwin says we don't need that. (Baldwin bow hunts). Judge asks about reloads. He says it's a gun owner's responsibility to make sure it's under 10k joules

Says the applicants have overstated the impact of the OIC. Says only 150,000 owners are impacted. Says the OIC doesn't punish owners, just the guns they own. Points to Mauser's 9% of homicides by legal owners. Giltaca also acknowledged some lawful owners have committed crimes before in history.

Baldwin says hunting and sport shooting is still alive and well in Canada. These guns are simply not required. Says hunting is barely impacted. Banning the AR didn't impact hunting because it was restricted. Says AR's weren't used in proper competitions only tactical war games.

Says Smith spoke about internal CAF shooting competitions and they don't need personal guns to practice. Judge wants to know how many guns affected, not just how many people. He says about 150k (false, it's over half a million).

He finishes. McKinnon suggests we break for lunch. Court is in recess for one hour.

Ok, we're back!! I've noticed the government lawyer side went from 3 chairs per table to 4. They've got a huge team here today #FatStacksOfLawyers #TaxPayerFunded

Judge apologizes for the delay

Court is in session. McKinnon takes the podium.

MacKinnon begins, clarifies notice question. Says every single owner received a letter notifying them of the OIC.

About ultra vires: denies it. Says the GIC acted reasonably and within their authority. Quotes the CC provision on restriction. Only the opinion of the GIC matters.

The standard of reasonableness stands. It is informed by the statutory concept. The GIC is the decision maker. The enabling authority can prescribe ANY firearm as prohibited. Public safety focus is the guide. Says it conforms with historical norms.

Says banning them will reduce the misuse of these guns. Goes to the case law of the applicants. Says you don't have to prove you'll achieve the desired outcome. Speaks to SCC cases about reasonableness. The court should ask if there's some reasonable basis to the unreasonableness of these guns.

If there's some tenable relation to the goal ... the court should find the OIC valid. Speaks to other case law.

Says it isn't necessary for the court to weigh in on the politics but focus on the authority question. Says the affidavits they submitted is the evidence she can take into account.

In the end, the RIAS is the rationale. The only salient restraint on the GIC is the statutory context. Says the decision of the GIC is reasonableness. Says the public safety purpose of the CC is consistent in the OIC.

Says public safety is always the focus of gun control

Says for over 50 years the government has empowered the GIC to regulate firearms. It's based solely on the GIC's own opinion. Parliament expanded these powers. Says the GIC has the power to regulate firearms without parliament.

McKinnon moves to the OIC itself. It says the GIC conducted the opinion itself. Shows the RIAS explains the rationale. Says most mass shootings are committed with ASF's. Banning them is meant to reduce this. It's also been demanded by the public (?)

Says the OIC addresses gun violence.

Says these guns are not appropriate because of their inherent danger. Brings up the tactical or military design. They recognize that while these guns were used lawfully and safely for hunting and sporting, they are disproportionate and unreasonable now.

Speaks to the availability of other guns. Just get another one. These guns, by design, pose a safety risk to Canadians. "We are trying to limit access to deadly firearms". Says there is a list of Canadian mass shootings and the guns that were used. They're now banned. It's preventative and responsive.

Says we can look to other countries. The intention is to reduce the number and availability of ASF's and to prevent their diversion into the illegal market. (They'll steal them first).

Speaks to the criteria to ban them.

Judge asks about diversion to illegal markets. He goes with "less guns is best". He says that's the point - to take them out of circulation.

Moves to consultation. Speaks about opposition to the ban. They had to hurry to avoid a run on guns.

McKinnon continues. Speaks to indigenous hunting and the amnesty. Says this meets the Sec35 rights of the indigenous people. No non regulatory options were considered.

The guns banned represent some of the most popular guns we own - that's intentional.

Speaks to the requirement to pre-publish. Says they were exempt from the rules on this because "public safety". Says these guns are internationally recognized for having the same public safety issues. Says they were built with the intent for military use and to kill the most amount of people in the shortest amount of time.

Says the RIAS and the evidence show these firearms are a danger to the public because they have been used in mass shootings. Police are armed with similar weapons to increase firepower. Says a semi auto can pierce through metal better. Says firearm related crime is rising.

Says the magazine restrictions alone were not sufficient to prevent mass shootings. Says the evidence is consistent. Says the applicants have failed to meet their burden that the OIC is unreasonable.

Says even if you're of a different view, there is tenable evidence on why the GIC made this decision. Judge asks if there's anything that explains how the GIC makes decision. He doesn't know.

McKinnon says it doesn't matter if these guns were used safely, what matters is the ban is for public safety.

Parliament deemed the GIC could find guns unreasonable for hunting and sporting, even if they were found suitable or effective for those things. Says the GIC considers the safety of all Canadians. Says indigenous can transition to a non restricted firearm for hunting.

Says it's been 26 years since they banned guns, it was time. The previous regulations were accepted and are similar to guns banned previously. Says the applicants raised a verbal argument without written evidence.

Complains the CCFR legal team specified the word “including” to limit capture of future guns. Says the CCFR says we must say “including but not limited to”. Cites case law on including is not exhaustive.

Says the Eichenberg team misused the term “is prescribed”, cites case law from the interpretation act. Says it can be applied to variants. Says language can not “freeze for all time”. Provides a second example.

Says the applicants lied about there being a “bargain” (Parker case). Says C68 was never a deal made with gun owners and there’s been no promise made to gun owners. Say’s government can not bind a future parliament anyways.

Says therefore the OIC is valid. The court is not to examine the policy choice or even if it’s effective. It’s to determine if the GIC acted under their authority.

Moves to adverse inference. Speaks to the objection to cabinet confidence. Says the court shouldn’t question this, and should rely on the evidence.

Says you can not find adverse inference based on speculation. If you aren’t privy to the debates in cabinet you can’t determine they happened. Says the case law doesn’t apply here due to the nature of the documents.

How can the applicants ask for an adverse inference on evidence they can’t prove exists. Judge says the problem is the public doesn’t have access to whatever was before cabinet when they came to the decision in the RIAS.

McKinnon says Sec39 was created for exactly this. To keep cabinet debate confidential. Judge pushes. McKinnon points to the case law. Shrugs. She frowns.

Moves on.

Speaks to the ultra vires argument. Speaks to the failure to pre-publish. Says they couldn’t notify the public they were doing this because it would end up in a run on guns. Says the applicants have no standing on this.

Finally, says there is no requirement to do this through legislation instead of regulation. OIC’s provide the government flexibility to move quickly. Says the use of OIC provides clarity.

McKinnon continues, reads from their witnesses affidavits. Says there’s lots of justification.

Asks if we should break

Court is in recess for 15 minutes

And we are back!! McKinnon takes the podium. Speaks to the Koops affidavit. Says there is a good list of mass shootings there for her.

Oxal now (for the government). She begins, says she’ll address the issue of sub delegation.

Says the applicants claim the government has sub delegated duty to the RCMP, through the FRT.

Says the GIC did not delegate authority, the FRT is not an exercise of legal authority, she'll also respond to the FRT shielding unnamed variants.

Oxal continues. She says to look at what the GIC has done. They have taken the power delegated by parliament and acted on it by banning guns. They expressly listed makes, models, characteristics and variants.

This is the same power exercised before by the GIC. She says most of the variants are listed (named) only a small list are unnamed. The source of the prohibition is the OIC itself. She says the regulation is the authority to prohibit.

The GIC didn't say we are banning variants whatever the RCMP say, the GIC designed the prohibition and variants within the OIC. The SFSS follow it. No delegation.

Cites case law about truck drivers.

This case law dictates that the GIC did not delegate any duties. The prohibition is laid out within the OIC, the officials just apply it.

The regulations themselves dictate the criteria, not the FRT. officials simply implement them.

She says the applicants suggest it may not be a direct delegation, but it isn't true. She says a legal authority is binding. This can't be confused with an opinion. The opinion may impact, and people may follow it, but it has no legal force.

Judge asks about Bouchelev's suggestion of scrapping the FRT. what would be the impact? Oxal says there would be no impact, the regulation would stand, but we would lose a valuable tool.

Oxal moves to FRT, not binding. Says this isn't a judicial review of the FRT, or it's entries. Gagne already ruled on that. Reminds the judge she's not to judge the merit of technical opinions.

The FRT is simply an administrative tool. It has no legal power or effect.

Quality assurance when it comes to the FRT, peer review. Points to Smith testimony. Smith assures the court there is a robust quality control system. No one person can create or change an FRT entry.

Oxal continues, says "reasonable for hunting and sporting" is not a criteria judged by the SFSS. Just whether or not it's a variant. It's the GIC that determines reasonableness. The SFSS determines head of family and variant.

One can assume if a gun is unreasonable, it's variant is also unreasonable. Judge asks if there's variants of variants. She doesn't know, but we aren't discussing that.

Oxal clarifies she couldn't find any evidence on the FRT that shows how people can challenge an FRT, but there's a contact page in Smith's affidavit.

Oxal says FRT entries are not closed and unchangeable. A person can call and ask for a review if they think it's wrong. These are technical opinions not quasi regulations. Smith evidence says people can write to him and explain why it's wrong and it can be changed.

Oxal says Hipwell's affidavit details how he's challenged FRT's successfully. It happens. Oxal says it's been a long time since the 2020 gun ban and nobody has raised concerns with the SFSS that the FRT change is wrong.

(Uh no - we took it to court)

Oxal says gun owners can access the FRT through retailers to inquire about the status of their firearms.

Judge asks about Sec74 challenges. How could owners go to the SFSS?

Oxal says nobody has challenged these FRT changes.

Judge says they can't challenge the guns in the OIC through the FRT because it's in the regulation. They'd be told the law changed.

Oxal says owners had the ability to challenge the FRT's for the unnamed variants banned after the OIC.

Found 2 Tylenol in my purse #ThankGod

Oxal moves to the role of the RCMP and the FRT. Oxal describes the difference between front line cops and SFSS. The SFSS is a support service not an enforcement agency.

Oxal says if the FRT ceases to exist, the ban would continue. She says this shows the FRT is not law nor regulation. She says applicants would still be facing legal risk without the FRT. says the FRT has a disclaimer, people know it isn't legally binding

Oxal speaks to Smith testimony. Cops use the FRT to lay charges, as Bouchelev stated. She says Bouchelev left out the other information they use. Says that police are not compelled to charge someone based on FRT data. It's just a tool.

Says the FRT is not insulated from review. She says applicants can challenge an FRT but they're not subject to judicial review. Says the decision maker, when using the FRT, can have that decision reviewed.

Oxal lists a number of officials who can be challenged, and in the end a person can of course challenge it in courts when they're charged. Judge asks if a person, defending themselves in court, can challenge it. Yes says Oxal, and have the charges dropped (process = punishment)

Oxal cites case law. Provides ON court decision. Henderson, a Sec74 challenge. Henderson was refused reg cert for a gun he owned deemed a variant of an AK. Says the Henderson argument was similar to ours.

The ON Court of Justice found the gun was not an unnamed variant of the AK, despite the FRT. The court was not bound by the FRT. The appeals court struck down this decision and found it an unnamed variant. Oxal says this shows the FRT is not binding.

Oxal reviews the takeaways from this case law. Listed variants help identify the unnamed variants.

Points to more case law. Provides a criminal example. This one is also about the Armi Jager like the last case.

This case (Christenson) relies on Henderson. Speaks to the nullification letters from the registrar. Says these letters can be reviewed. Refers to Steacy affidavit. Shows the letter he received. Says these letters weren't open to Sec74 challenges, but owners could have launched judicial reviews.

Oxal goes now to Timmins affidavit (ATRS). Reviews the letter he received from the CFO. She says he could have launched a judicial review on that too. Oxal jokes, says she's not Timmins lawyer but if she was, she'd have filed a judicial review. Judge laughs

Oxal addresses statement by Phillips (CCFR case), referring to Vancouver transport case law. Says when the GIC does what parliament intended to do there is no sub delegation.

Oxal finishes her submissions on sub delegation.

Judge says we should start fresh tomorrow. Talk about tomorrow's schedule

We adjourn until tomorrow morning

Fin



The image is a screenshot of a tweet from Tracey Wilson (@TWilsonOttawa). The tweet text reads: "CCFR vs Canada 🇨🇦 - Federal Court Challenge to the 2020 OIC gun ban (and additional bans since). Day 7 - Thread 🧵". Below the text are two video thumbnails with play icons. The first thumbnail is titled "AGC (Gov't) presents their case (part 2)" and the second is titled "Applicants respond (? May be tomorrow instead)". At the bottom of the tweet, it says "Follow along here" followed by three hand icons pointing upwards.

Before we begin, I'd like to put it on record that I intend to craft a parliamentary petition to allow coffee service within the Supreme Court of Canada building and courtroom. This is bullsh*t ... coffee is life

Court is in session, let's begin.

Gorham (government lawyer) takes the podium.

We have no sound. Stand by.

Clerks scurrying around staring at screens, fiddling with software. Things are rebooting. The lawyers murmur.

Clerk tests mics- seem to be working now. I don't see the livestream on screen though.

Do you guys see us?

Clerk tried to launch meeting. Zoom keeps saying invalid passcode. We giggle.

Judge says we will suspend for 5 minutes for tech support.

Ok we are back, issues fixed.

Court is in session, let's begin.

Gorham begins. Has issues to address. Speaks to challenging an FRT, mentions ATRS letter from RCMP. Tells judge ATRS was originally a CCFR applicant but withdrew and went it alone for damages. Shows it can be challenged.

Speaks to "variant", says Smith addresses this in his 2nd affidavit. Says the RCMP rely on the ordinary meaning of the word because it's not defined, must be linked to the head of the family of guns. The government position is all linked variants are prohib.

Gorham moves on to lay out the roadmap of his submissions. Will also outline his plans to discredit applicant witnesses.

Procedural fairness: says CCFR raised this issue in their factum. Gorham says we are not permitted to use this argument.

Says various applicants brought application for relief to review technical opinions of the RCMP, Justice Gagne denied it. Gorham includes the decision. Gagne argued that it was unclear which technical opinions were being considered.

Gagne said the issue could however be raised under sub delegation. Gorham complains the CCFR is trying to use it as a judicial review. Says we are seeking to have the court determine the RCMP FRT opinions invalid.

Gorham says the RCMP doesn't exhibit any authority when making classification decisions. They're just opinions and not subject to procedural fairness. Says we can not challenge the technical opinions of the RCMP.

Gorham says there is no evidence for procedural fairness. Refers to case law from MB law society. Reads parts of that decision to support his claim. Says the court should refrain from a decision on our application for procedural fairness, which will protect the FRT decisions from being negated.

Gorham moves on to the bill of rights argument from the CCFR. Mentions Generoux bill of rights argument. Says the due process protections of rights don't apply here because the OIC wasn't inflicted personally and individually on people.

Cites previous case law decisions to support. Says the bill of rights only protects notice. Says the bill of rights doesn't apply here. Says the regulation is of a legislative nature and therefore doesn't violate the bill of rights ...

Refers to more case law. Moves on to discredit our expert witnesses.

Mauser, Langmann, O'Dell, DeMille, Bader and Gold. All are not impartial.

Mauser provided two affidavits, for Hipwell and CCFR.

Mauser is tainted by his personal interests. He's a gun owner and is affected by the ban so is not impartial. Lacks objectivity. Mauser publishes on "Justice for Gun Owners". Wrote article about "facts you need for the coming fight"

Mauser writes we must prepare for the Liberals to bring down the hammer. Mauser says regulation and registration doesn't reduce crime rates. Says Mauser has preconceived notions that the Liberal gun control will fail. He should be ignored says Gorham.

Gorham discredits Langmann. Says his evidence is irrelevant and outside his scope of expertise. He's not a qualified expert witness. He won't answer if he owns guns so he may be biased by this. Says Langmann isn't transparent. No weight should be given to his position.

Speaks to the published research of Langmann. Says his research isn't relevant to the purpose of the gun ban which is to reduce mass shootings and their severity, not homicide and suicide. Gorham says their expert, Chapman, is a more appropriate witness.

Says people don't use ASF's to commit suicide, so it's outside the scope of Dr Langmann's expertise and his opinions should be given little if any weight.

Moved to DeMille of @ofah - says he is not an expert in one affidavit and is in another.

Says DeMille's opinion on reasonableness for hunting and sporting should be given little weight. Judge asks about the OFAH report. She confuses it with Bader report. Gorham clarifies and pulls up OFAH report.

Gorham goes on to talk about OFAH, brings up their "vision and mission" - the voice of anglers and hunters. It's the government's position that DeMille and OFAH are not experts, they're advocates and should be given little weight in court.

Moves on to discredit Bader (Silvercore). Speaks to Bader's personal business interests that are affected by the OIC, making him not impartial.

Says the same for O'Dell. Says he's not properly qualified as an expert of any kind. Says O'Dell isn't objective and could be subject to charges if case fails.

Gorham speaks to O'Dell Engineering, they're an applicant in another case. O'Dell should be ignored as well.

Moves to Miller and Cunningham (Milcun). Says they're not expert witnesses and didn't sign the code of conduct. Dismisses them

Moves to Bruce Gold (Generoux case historian) The AG has filed a formal objection to this witness. Says Gagne referred the matter to Justice Kane. Judge says the Gold evidence was in reference to "gun culture" - Gorham says he isn't an expert historian.

Note: Gold is a Masters in Cultural history lol

New government lawyer now (Boyd?)

Will speak to the Charter parts of the applications. 4 of the cases launched charter challenges

Boyd says the applicants have failed to demonstrate how their liberty has been violated. Points to case law.

Sound sucks.

Asks if the violation of liberty is within rights of fundamental Justice.

Boyd asks if anyone who owns guns banned in the OIC have had their liberty affected. Boyd doesn't think so. Speaks to the CCFR application, Giltaca affidavit. Says we've provided no evidence of this. Quoted SC case law re: right to own guns. (Relevance?)

Says the OIC doesn't prevent our right to own guns, just regulates which ones we can have. Quotes Montague decision. Says the Giltaca affidavit did not meet the requirements. Baldwin (government witness) showed there are other alternative guns he can buy.

Baldwin says Canadians can use bear spray or bangers, a gun is not your first line of defence against animal attacks. Says Giltaca said he needs prohibited firearms to protect his family. Says Giltaca owns a lever action, shotguns and handguns.

Boyd says the OIC does not violate Giltaca's right to self defence. Judge asks if during cross anyone mentioned you don't shoot someone who knocks on your door. Mocks the idea anyone needs a gun to protect their life.

Boyd moves to fundamental Justice now. Says CCFR raised 4 issues in their factum on this. Says the test for "vagueness" wasn't met, cites case law, SC decision. Reads from the decision. Changes to another case law decision on the principle of "vagueness".

Boyd continues to read case law on vagueness, interpretation. Says the charter does not require criminal law to be precise. Just not vague. More case law. Says information on variants is available to the public, been used before. People are familiar.

Says the applicants have not met the high threshold to demonstrate a charter violation.

Says the term variant is important because it helps catch like firearms before they hit the market, says manufacturers try and get around it. Vague is good.

The Liberals testified in committee about why they will never define variant: to prevent loopholes and provide flexibility to ban guns. Says nobody has complained to the court since it's use began in '92. Says Brown agreed gun makers circumvent the rules in their design.

Boys continues, references Smith affidavit. Shows how new guns have been designed and banned since 2020, showing makers are working around the rules (complying lol). Judge asks if there's been inconsistency in what is a variant? Boyd says it's open to interpretation.

Cites case law on interpretation. Just because reasonable people may disagree on the definition of a term, doesn't deem it vague. Speaks to their witnesses opinion on variant. Says the Bader opinion on variant would circumvent the OIC.

Says Bader interpretation is inconsistent with the regs, conflicts with previous ON court of appeals decision.

Says we should take a break

Court is in recess for 20 minutes

Note: during recess the entire massive government lawyer benches cleared and they met behind closed doors.

Will be interesting to see if applicants wait until tomorrow to respond or go today. Burlew is still missing (maybe remote)? They'll have to decide.

Ok here we go. Remember everyone, we get to respond. And the judge decides, not the AG legal team.

We're back.

Boyd again takes the podium. Speaks to the need for flexibility in regulation.

Brings up Rod's YouTube videos (Civil Advantage). Says the regulations are not vague, variants is a common term in the industry. There are ways owners can find info on unnamed variants. Previous OIC bans also used "variants" and nobody challenged it.

Previous OIC bans used all the same language Boyd argues. Cites various regs, legislation that used this language, terms. Speaks to Friedman submissions with use of variant for cartridges and magazines. Common term - accepted.

Boyd reads from previous regs. Says since '98 you had to understand the undefined term variant. Says even the industry uses it. Owners too. Provides examples from Murray Smith of this. Smith reminds us that marketing terminology is used to classify.

Boyd continues, Smith quotes industry literature that uses the term variant. Using the term "AR platform" associates many variants to the AR. Smith combed chat groups, online platforms and assembled lists of people using the term variant or AR platform.

Boyd says the applicants haven't properly challenged vagueness. Cites case law. Previous courts used Oxford dictionary definition, appearance, receiver. Previous ban overturned for not being a variant, but that decision was also overturned. A variant of a variant is a variant.

Says this case law shows the term variant is not vague. Says the courts have already decided this. This is a clear demonstration that the regulation isn't vague.

Continues to argue language interpretation, cites case law.

Speaks about the case law for pitbull ban language. Court found it not vague too. Says the pitbull ban listed 4 dog breeds, our case lists 1500 firearms, so it's more precise. Not unconstitutionally vague. Goes on about other vague language interpretations.

Reads previous decision from the court of appeal. Points to the various elements of determination when interpreting.

It's common to use terms that require a level of interpretation. Boyd speaks to the storage/transport regs

Under storage: “readily accessible”. This is open to interpretation too.

Under transportation: also has vague language

Under transportation: “reasonably direct”, open to interpretation

Boyd speaks to other previous decisions, vague language, interpretation. Firearms owners are expected to know the law, understand the consequences of breaking it. Common sense. Says owners received mail notice from the RCMP. They know their guns are banned. They’re not at risk.

Boyd says if owners have questions they can call the CFP, CFO. They can also call the gun shops for information. Between all of this they have interpretive context.

Turns to Bouchelev’s comments on appearance of a gun.

Says the courts look at similarity of appearance to determine if it’s a variant. Looks matter.

Says stuff like bore diameter has been common terminology for owners and industry, dismisses concerns over where to measure.

Says bore diameter is easy to determine by looking at data stamp on the gun. For shotguns you only need to know the gauge. For rifles, the bore diameter is learned by the calibre. Says the hunting regs show gauge limits, same idea as bore diameter.

Says no wildlife officer has ever measured a barrel or bore diameter. Boyd says the RIAS also provides examples: grenade launcher. Says the industry standard for bore diameter excludes 10,12 gauge. Also, people know about this because they’ve been notified.

Boyd turns to muzzle energy and joules. Smith spoke to this in his affidavit: says it’s easy to determine joules of your gun. You just need to know what ammo you use. Then look it up. Reloads? Smith says people use loading tables.

Boyd concludes that the regulation is NOT vague. Turns to over-breadth and arbitrary issue. Cites case law. Argues that if the law is connected to affects on your rights, then it’s not overly broad. Pulls up more case law.

Says there is no connection between the laws effect and its purpose. Speaks to the test for over-breadth. Says the applicants haven’t met it. Reads case law. Reads the “purpose” and objective of the OIC. Says the RIAS helps determine the purpose of the OIC

Cites previous case where RIAS was used to support regulation.

Concludes these firearms are not suitable or reasonable for hunting and sporting use, as stated in the RIAS. Reads Mendicino mandate letter.

Supreme Court decision says efficacy of a law is irrelevant to its purpose.

Boyd says the applicants haven’t met the burden of proving this gun ban will have NO impact on public safety. Says ASF’s have been used before in mass shootings around the world. Koops spoke of the danger police face due to these guns

Points to AUS. Judge asks definition of mass shootings. Boyd says we shouldn't care about the definition. As long as the purpose of the OIC is to reduce them and these types of guns have been used. So we should ban them.

Boyd says the RIAS says these guns are inherently dangerous. They're a threat to public safety. Explains how they banned models of guns that were used in NS, Polytechnic. Says because the guns are dangerous, the OIC is not overly broad.

Says prohibition prevents misuse. Boyd turns to the amnesty order. Argues the amnesty order isn't overly broad either, when allowing indigenous hunting, because it's temporary. Says because the objective of the regulation is public safety, it's not overly broad.

Boyd says Hipwell saying he's law abiding is missing the point of the regulation that bans inherently dangerous guns. Says the onus isn't on the government to prove the OIC will improve public safety, but on us to prove it won't.

Boyd speaks to "grossly disproportionate" argument. Says enhancing public safety and banning these guns vastly outweighs inconveniencing gun owners.

He finishes. I punch my own face.

Judge asks about schedule. Warner (CCFR) on behalf of the applicants we wait until tomorrow

Judge says each applicant only gets 20-25 minutes to respond. Burlew (remote) says he's ready to go immediately after the AGC.

We'll break for lunch, finish AGC, then Burlew. The other legal teams will go tomorrow

Court is in recess for 1 hour

Ok, we are back and the court is in session.

Hughson now for the government. Will address the constitutional arguments.

Sec8: protects against unreasonable search and seizure. Did it happen and was it reasonable?

He argues a search and seizure hasn't happened ... yet. Cites case law about privacy. Says privacy rights shouldn't apply to governmental actions. The regulation contemplate property seizures but they don't meet the burden here.

Says risk of criminality falls under Sec7, not 8 (Hipwell and Generoux used 7). Hughson argues against Sec11 argument, because it wasn't filed in his (Hipwell) application. Says it should be dismissed because nobody's been charged.

Sec15 (Generoux): says gun culture is being discriminated against. Hughson cites case law. Argues the claimant must demonstrate the discrimination was committed on enumerated or analogous grounds. Lays out the criteria required.

Refers to race, colour, ethnicity, sex, age etc - says that "gun culture" is not recognized as something you can discriminate against. Says gun use is not an immutable characteristic. Argues there are substitute firearms that can be used without a disadvantage.

Hughson argues Generoux herself says gun culture is alive and well. Says comparing cultural genocide with gun owners plight is objectionable. Says hunting and sport shooting are not recognized as a right. The purpose of gun legislation is public safety.

Says we have no right to gun ownership, it's a privilege.

Sec26 (Generoux): Hughson says Sec26 only ensures the charter protects other rights.

Urges the court not to find the OIC violated any rights of any Canadians

Hughson argues we must do a robust Sec1 analysis. Refers to case law and the test. Says an infringement of the charter is justified under certain circumstances. Argues the "public good". Cites more case law.

Sec1 allows for breach of Sec7 for complex social problems. Pulls up case law on screen for judge. Says there is room for debate about efficacy. The broader consideration of the public good outweighs an individual's Sec7 charter rights.

Hughson argues the threat to public safety of these guns and the pressing nature of this issue, the court must find the breach appropriate. Says law enforcement called for this (?), says previous mass shootings justify it. Stats Can shows an increase in firearm crime too.

Hughson refers to Stats Can presentation to SECU. Speaks to the 42% rise in firearm crime since 2013. Further uses crime to justify the ban, leaves out crime gun vs legal.

Goes to Brown affidavit. He lists crimes and shootings with semi auto.

Refers to NS shooting. Correlates horrible crimes to gun owners. Brown states that all the models of guns used in mass shootings are now prohib under the OIC. Shows charts Brown made for the courts, speaks to mass shootings in other countries.

Hughson argues Brown stated the source of crime guns are mostly from domestic sources (contradicts government statistics). Koops refers to the dangers of police when facing these guns.

Koops outlines submissions from CACP, they asked for protections against gun violence even if it violates gun owners. They advocated for a ban on these guns. Koops outlines cities who wanted bans, PolySeSouvient, Spin Docs. They all want gun bans he says.

Koops provided commentary from victims ombudsmen who also wanted ban. Lists other organizations who wanted bans on our guns. Hughson says we have social science evidence from Kuvaris, Brown and Naj. He says studies show ASF's are more lethal. Points to opinion polls.

Uses all this to argue the "pressing nature" of the ban (of guns we still have in our homes).

Says the government's OIC was proportional to the immediate risk to public safety.

Hughson points to SC decisions that speak to "proportionality" of government actions. Says there is a strong correlation between this OIC and the historical trend of strong gun control laws. Guns can be used in suicide or other immoral acts.

Argues these guns can be used in mass shootings, and they have, so banning them is proportionate. There is no evidence we must differentiate between legal and non legal guns. The efficacy of a law is not relevant to parliaments ability to regulate.

Says accidents can happen in gun owners homes or can be stolen. Registration would also help.

Moves to Giltaca affidavit. Says Rod acknowledged that there has been mass shootings committed by legal owners.

Says Mauser noted 9% of gun homicides are committed by legal owners, therefore this OIC ban must be found reasonable. Lists other countries who've done the same. Says Chapman said they've had no mass shootings since their ban (AUS).

Ignores the changing of the definition of mass shootings lol

Says the regulations impacts are minimal compared to the burden on public safety of not doing bans. Says the impact is small on gun owners and not too many people impacted.

Says only 150,000 people affected. Says we still have other semi autos we can use. Judge asks about the impacts on each person vs the broad impacts on everyone. Hughson dismisses this concern.

Hughson says the impacts on public safety of banning these guns far outweigh any burden to owners. Says people are protected by the amnesty.

Moves on to argue the Alberta intervention.

Speaks to the reasonableness of these guns. Hughson says the only opinion that matters is the GIC. They alone decide what's reasonable.

Says Alberta left out parts of the SC reference they used.

Speaks to some of the administrative law arguments from Alberta on sub delegation of duty. Tried to deflate their case law examples.

Hughson finishes. McKinnon approaches. Asks that if the court not dismiss our applications, can she consider a remedial order.

He's concerned if (and when) we win, would it impact other previous OIC gun bans. Says they may be called on to make future submissions.

We'll break for 15 minutes

Court is in recess

Sidebar: when we come back in session we will hear rebuttals from Burlew (Hipwell case). The other applicants will all go in the morning. Fresh.

This is the last push for today.

Give me strength

And we are back. Let's go!!

Burlew tunes in remotely. Does a sound check.

Burlew proceeds. Sets a timer

Says we must consider that the OIC doesn't prohibit all guns that could be used in mass shootings

Speaks to other previous prohibitions that are still in our homes (old full autos). They aren't listed in this. Points to Mauser report and stats from Commissioner of Firearms; there are over 185k prohibits still in civilian hands.

Says this is important to the arbitrary nature of this OIC. Judge asks how this OIC is arbitrary? Burlew says it shows how these guns can be safely still owned by licensees. Argues you can't take many of the old prohibits out. Says this OIC is unique.

Says this shows the statements by the AGC are false.

This OIC is grossly disproportionate. Says the government says you can keep your old full autos but not your semi auto sporting rifles? Speaks to vagueness.

Burlew says the privacy issue can't be solved. Speaks to previous Hipwell FRT wins. Points to Oxal statement that the SFSS isn't to classify firearms yet that's what they say their purpose is. WK180 report says they will determine legal classification.

Burlew continues and reads Classifications made by the SFSS. The purpose of inspection is to determine legal classification. Points to inconsistency in classification. Reads SOR that says only the registrar may keep records, yet the RCMP assume that role

Goes back to vagueness. Circles variant again. Says it's the "Wild West" when it comes to classification. Shows inconsistency between bureaucrats and experts. Judge says she asked gov counsel this. They said that's the application of the term variant is vague not the term itself.

Burlew says the criteria changes and is not consistent. Says Bouchelev displayed this well. Says Hipwell has had multiple FRT mistakes fixed. Burlew says there is no appeal process available. You won't find info on that anywhere. Says Oxal said you can challenge it.

The AGC has already said there is no jurisdiction because it's not a revocation. It's a nullification. These are in court, on their 3rd year. Judge asks for clarity on Sec74 challenges. Burlew explains.

Burlew points to ATRS, letter from RCMP to stop producing guns banned, but they weren't on the OIC. Someone decided later they were "variants". Says Oxal is disingenuous. Burlew says it's not about guns, it's about the people.

They're getting letters, they're losing their property, they're destroying records and pulling registrations. That's a seizure. An infringement. Says the Sec11 argument may be premature, but when the amnesty ends, it'll become very real.

On O'Dell, Burlew points to old SOR where O'Dell (and others) was considered an expert.

That's his time.

Adjourned until tomorrow morning at 9:30am

Fin.



Tracey Wilson ✓
@TWilsonOttawa

CCFR vs Canada 🇨🇦 - Federal Court Challenge to the 2020 OIC gun ban (and additional bans since).

Day 8-The Final Battle-Thread 🧵

▶ Applicants respond to the government

Follow along here 🖱️🖱️🖱️

Before we begin today, I want to thank everyone who's followed these proceedings, all of you who supported and donated, and every Canadian who values property rights and individual liberty. It means a lot.

Thanks for being here

Generoux just told me to get my fingers warmed up, she's got a spicy rebuttal. This makes me smile

There's some electricity in the courtroom this morning for sure!!

Giddyup

The final day of court is now in session. Today the applicants respond to the government's submissions.

Generoux (self rep) goes first.

She takes the podium.

Let's begin.

Wait. McKinnon wants 30 seconds first. He's upset about Burlew response. Wants to clarify Oxal's statements about the nullifications, it's also a matter before another court (AB). Says the nullification letters are not subject to review by the provincial court.

Clarifies they may be subject to judicial review not Sec74 challenges.

Generoux takes the podium. Starts her timer.

Says 25 minutes isn't long enough to respond to the mischaracterizations of the government lawyers

Defends her expert witness, government called him IT guy, Generoux details his vast qualifications and published articles. Asks for the objection to her witness dismissed. Says her witness has been a friend to the court as an expert for a long time.

Generoux defends her position on protecting gun culture. Sound problems. She continues, references previous Sikh case (carrying knife to school). Kirpans are vital to their culture. References previous Sec7 charter case law. She feels the crown is cherry picking from her literature examples.

Speaks to R vs Sparrow case law. Says the government dismisses her concerns, says you can just get another type of gun. Says the judge can't trust the crown's judgement. Says they've done residential schools and other horror. Speaks to types of guns.

Says gun control is defined in the SC as licensing, background checks, storage etc - not bans. Mentions Brown testimony. He admitted the definition for mass shootings changes. She says we are innocent until proven guilty. Judge asks about mass shooting definition.

Generoux clarifies the magazine and action matter in mass shootings, not spree shootings like Poly or NS, they had plenty of time to commit their crimes. Debates government evidence,

Points to changes in definitions to suit their narrative.

Says this kind of trickery is fraud. Details facts about notorious mass shootings, shows mags and gun type make no impact. Reads Poly coroner report stating type of gun played no role. Says removing our guns is a violation of Sec7. Says self defence with a gun is legal in Canada (true).

Cites multiple cases of self defence with a gun in Canada. Cites Thompson case. Says the OIC is to stop our culture and sport not mass shootings.

Rips their factum. Says they didn't try to ban semi auto before. Brown said this ban is a technology change but we've owned them for over 60 years.

Rips them for no prepublication. Speaks to their "loopholes" argument. Speaks to the sub delegation, says it's a "chill" on her culture. Says no definition for variant demonstrates vagueness. Quotes case law, says they're red taping us out of existence.

Says the problem with variants has existed for a long time. But there were only a few, now there are hundreds. They're abusing it. Says the FRT is being used. Says it's expropriation of her valuable property. Speaks to their factum. Asks about foreign interference and anti gun lobbyists.

Says Naj tweets to ban all guns then testified she didn't mean it. Speaks to the constitutional issue Alberta raised. Says the crown said they should be ignored. They want her to focus on the opinion, they don't want you to look here, instead look here.

The crown says they can ban anything but 117.15 doesn't say that, words are important. They can't ban something that is reasonable for use. Mentions Mendicino statements on why they were banned. The focus is on the thing to be prescribed, not their opinion.

Says other things banned, like grenade launchers are truly unreasonable for hunting or competition, but this goes to far.

She says all Canadians must be protected. This is about broken trust and broken bargains.

She says we are the ones keeping Canada safe.

Generoux finishes.

Friedman (Parker case) now. Says the court will reflect on impassioned debate, arguments of fact, statements of culture and politics. Sounds like the kind of debate better suited for parliament, not the court room.

Says the law does not depend on the court room to be the place of debate. Says we must return to the language of 117.15

Speaks to the effect of the amnesty. The impact on how the court ought to apply the limitations of the law.

Speaks to the alleged link drawn by the crown between our guns and Maas shootings.

Speaks to statutory power. What grants it? The law. Speaks to the reasonableness. What does reasonable mean? Says a detailed record has been assembled that answers that.

Keeps calling the crown "his friends"

Says there's a reason why the crown didn't address if these guns are reasonable. They don't think they have to. They can't. Because they know they are reasonable.

Says there is a reasonable argument on both sides. The position that these guns are not reasonable is unsupported by the evidence. They pivot to saying "it's for public safety". Says he has a visual.

Shows 117.15 on the screen.

Deletes the "restraint" part of the law (reasonable for use for hunting and sporting) says this is how the crown thinks the law should look. It's not unfettered power. Shows how you'd have to remove certain words to do what they've done. They've interpreted the law wrong

Argues they are dismissing the built in restraints within the law. There are limitations. They've violated them. Says just because they say it's for "public safety" isn't good enough. They must remain within the limits of the law. What is the test?

Judge asks about "the test".

Friedman says there is no test, it's simply a limit. Says they haven't done the work. Says they simply formed a subjective opinion. The crown is relying solely on their opinion, without any restraint or evidence.

No statutory provision can be meaningless. "Reasonable" is the qualifier.

Moves to the amnesty. Says it simply protects them from possessing these guns, not using them. Says it's not about being upset about the amnesty.

But, says it contradicts their claims that these guns are too dangerous. For indigenous, not only are they reasonable for use, they're necessary. The amnesty says this. So how can they be necessary but also unreasonable?

Highlights the importance of the disagreement. Judge asks, if these guns are reasonable for indigenous hunting, how are they not reasonable for anyone? Friedman says they're not just reasonable, they're necessary.

Friedman says the crown doesn't care, they simply formed their opinion. They didn't meet the test. Says he'll close with an important point. Mass shootings.

Says the crown has relied on the purpose of "public safety".

Goes to Chapman (AUS) response in the record. Chapman flip flops. Chapman concurred that mass shootings were so rare, that the FA wouldn't have made any significant difference.

Says this public safety argument has no evidentiary support.

Says the crown has formed a link between these guns and mass shootings. Even Chapman says it is statistically insignificant.

Friedman closes with use of the OIC, they should have done legislation.

Parliament is supreme. We'd have had no case. Finished

Warner (CCFR case) says she has been tasked with the legal nerd part of the response. Says she will argue the administrative law. Says she will clarify the mischaracterizations made by the crown.

Says this judicial review is to determine the authority of the delegate and the constraints within the law. A delegate can not adopt an inferior interpretation of the law. The constraint here is a unique one, the opinion on reasonable for use.

The importance here is if this is justified under the restraints.

Says we can not use "public safety" as a trump card. The constraint limits the prohibition of some guns, that's the entire point.

Chooses the Derya MK10 as an example. Reads the FRT declaration. Says it's like 100's of other guns. Says if it was misused by someone and the GIC deemed it prohibited, they violate the constraint in the law.

Says the way the GIC did it isn't in line with the constraint. Judge asks how something can be inherently deadly but also reasonable. Warner says where is the line? What is the qualifier? It isn't inherently deadly, it's the reasonableness.

Warner says the crown wants the judge to consider these guns as assault "style". It isn't a thing. It isn't defined. Says Smith confirmed he owns a Browning that would fit the description they use but said it isn't one.

Warner says in order to call something assault style you must define it. Just semi auto isn't enough. Smith admitted there is no legal significance to the term. Says there is no way to use "assault style" and respect the qualifier in 117.15

Says the crown can't provide the court with coherent evidence to prove they've met the test.

It's ok for the OIC to be sent back to parliament. It's not legally valid.

Speaks to variant. Says the crown said you compare the firearm with the head of the family and nothing else

Therefore a gun can't be a variant of a variant. Shows how Smith couldn't answer judges questions on variant. Crown used one instance but he contradicts himself.

They took Smith to FRT entries. Smith admitted some guns banned as variants share no actual parts with the head of family.

Smith couldn't explain why he deemed some variant. Smith said he needed to review his notes. There were none. It was never inspected. This proves it is vague and not obvious to Canadian owners.

Phillips now (CCFR). Speaks to the OIC, it doesn't indicate there are unnamed variants, only the RIAS does. There is no indication in the OIC that there are other guns included. This speaks to vagueness. The crown purposely won't define variant.

Phillips rips their pitbull ban case law example from yesterday. Says the crown left out the inclusion of the word "includes", which is definitive. The crown's case law example doesn't support their position, but ours.

Shows how the word "including" should be narrow and not broad due to the vagueness problem. Judge questions the language. Phillips outlines the reasons it is vague, nails it.

Phillips speaks to the FRT. says the reason the crown said the FRT is just used for guidance and isn't binding is because the term variant is vague, so they need that guidance. Legislation can not leave it to law enforcement to determine legality. It's a violation.

Miller now (CCFR). Speaks to the Henderson case law on vagueness. The crown relied on this case. Says the Henderson series of cases do not help this court or this case, they're not applicable. Speaks to ON court of Justice case law instead.

Says failure to define variant is vagueness and the legislation failed to appoint a decision maker. The SFSS has no authority. Says the ON court of Justice has actually adopted a definition of variant.

Says the vagueness of the term variant has only enhanced reliance on the FRT. the question before the court is, is the term variant constitutionally vague. The term variant must be redefined to mean only named variants.

Miller addresses crown's comments about the credibility of the witnesses. Notes the crown never marked any concern about any of them. Says their concerns about Mauser = our concerns about Naj Ahmed. Says she's an advocate and details her political lobbying.

Speaks to Naj's tweets about these proceedings. She's not impartial. Says Chapman is also biased like Naj. Says Langmann is academically honest, answered questions wholly. Says Langmann is a published expert, the crown has zero published expert. Langmann remains the preeminent expert and authority on this subject.

Break time.

Court is in recess for 15 minutes

"The purpose of gun control should be to prevent misuse, not use"

~Christine Generoux

And we're back.

Bouchelev now (Doherty case)

He begins. Goes back to Henderson case. Crown relied heavily on this. Mentions the Christenson case law, both dealing with the same gun.

The case went through 3 levels of appeals. The judge relied on the dictionary term and decided it was not a variant. In the superior court it was overruled and was prohibited. It was deemed to be an exact variant of another gun.

Says the crown was coy in trying to apply this case law. Judge asks if the fact only two previous cases exist, is that a case of the term variant working? Bouchelev says there may have been other cases but now it's an issue because there are huge numbers of unnamed variants. That's new.

Bouchelev suggests this case law isn't helpful to the evidence because it shows we depend on judicial review to decide, and various courts rule differently.

Says firearms are a specialized matter, complex.

We don't have specialized courts.

If judges have to rely on the dictionary definitions we will continue to have problems.

Bouchelev suggests judges aren't necessarily firearms experts. Judge says criminal court judges may be more versed. Bouchelev says this is why clear definitions are important.

Bouchelev speaks to the gun Smith owns. Says the gun he owns is still lawful. There's nothing different about his gun and any of the guns banned by OIC. Says the crown says the term variant has "plain meaning". Yet they haven't defined it.

Asks what variant means? Smith says the RCMP use the dictionary, appearance, marketing, varying and various criteria. That is not "plain meaning" it's the opposite. Says this isn't fair to Canadian gun owners.

Asks how the average hunter or sport shooter would make determinations. Says Smith couldn't explain why some guns are variants. The crown suggested people could call stores or ask on social media: that's ridiculous.

Smith said the community knows the term variant. Bouchelev gives the industry definition. But this isn't the one applied here. They submitted we ignore the definition provided by Bader.

Sound problems

Uses stand mic instead.

Judge asks about Brown affidavit - he shows it's been used for a long time. Bouchelev says that's the problem, it's been used and never defined. All we have is varying personal opinions. Nobody agrees on it.

Judge asks about calling the gun shop to ask. Says owners may be more aware and can help each other. Bouchelev says it's a foolish thing to do. She says it's not legal advice. He says if it exposes them to criminality it is.

Bouchelev uses the ATRS example. Bad advice or opinions can result in charges. She asks about calling the CFO? Bouchelev says even that exposes owners to criminality. The amnesty doesn't say it covers unnamed variants specifically

Bouchelev continues, says the CFO resources are limited. The call centre can't handle demand. There is no reliable option for owners to find out if there gun is banned. That's why vagueness is a problem.

Bouchelev speaks to literature the crown mentioned. Smith admitted the literature doesn't use the same definition either. It's vague.

Speaks to "loophole" argument of the crown. A clear definition would reduce workarounds they object too.

Says if people or manufacturers workaround something they are complying with it.

Says the crown asked the courts to consider the affidavits as evidence of the basis for the ban, but they didn't exist then. They aren't justification.

The crown has refused to provide their evidence under cabinet confidentiality. Says this ban was done because it was expedient to their election campaign. It's impossible they relied on these affidavits at the time they laid the OIC.

Bouchelev says no weight should be given to these affidavits. Moves to mass shootings. Says the crown has provided no evidence that the guns banned in other countries are the same as the guns banned here. They compare the incomparable.

The crown submits that mass shooters purposely select these guns? Do they also think they wouldn't commit mass shootings if they only had other guns?

Mentions Ruger Mini 14 (Polytechnic shooting) it was never used before and never used again. Says there no evidence the perp specifically chose that model?

If he didn't have one, he would have just used another gun. It's ridiculous to assume removing that model from circulation changes anything.

Speaks now to the changes to the wording of 117.15

These are the first updates to the regulation since 1990. Changing 117.15 wasn't meant to expand their powers or they'd have used it. Gives some history.

Moves to the attacks on our experts credibility.

Crown called Bader just a gunsmith. Bouchelev details his resume, with 20 pages of qualifications as an expert.

They referred to DeMille as just a lobbyist, Bouchelev points her to his resume and expert experience.

Defends the record of Milcun, absolute experts

Bouchelev continues (well over time). Speaks to the RIAS. It is not part of the regulation but an accompaniment. Speaks to the criteria in the RIAS (semi auto, detachable magazines etc) yet many firearms that would meet the criteria are not banned.

Bouchelev speaks to “modern design” - how far back do we have to go to say it isn’t modern. Is modern more lethal than others? There’s been no evidence on that. Speaks to “presence in the Canadian market” (popular) asks how popularity matters. Says it speaks to its reasonableness

Bouchelev on a final point. Says this whole gun ban OIC is a political sound bite. The RIAS says you can replace your banned guns, but they’ll just ban them too.

Gun owners are being targeted.

The real objective of the OIC is to go after a sector of the gun community.

Bouchelev is done.

Slade now (Eichenberg case)

Will address cabinet confidence and adverse inference.

Says an adverse inference isn’t limited to cases of selective disclosure.

Dissects the case precedence the crown used. Says the RIAS attempts to justify the OIC, and the affidavits attempt to justify the RIAS. But there’s a gap. What was used to make the decision here? That’s where the adverse inference comes in.

Cites new federal case law that better details adverse inference. Says both his factum and the CCFR’s cleared this up. Adverse inference is declaring cabinet confidence in bad faith or decorum. Say’s government usually provides a summary. We didn’t get it.

Slade continues, reads. Says we never received the accompanying documents. Shows case law that says this is adverse inference when there is a gap in evidence. Says it goes further, it can quash a GIC decision.

Slade says that there were materials before the GIC that disagrees with the decision ultimately made. The science doesn’t back the ban.

Meehan now (also Eichenberg) wants to make 3 points.

Speaks to the argument earlier about banning something that doesn’t yet exist at the time of the opinion. Points judge to evidence they’ve exceeded their authority. Points to AB factum, where they speak about banning things that don’t exist yet.

Meehan speaks to case law that says parliament is not frozen in time. The regulations have to flow with the authority of the statute. Says the FRT that lists the prohibited variants not the OIC or the RIAS.

Meehan continues, speaks to the vulnerability of the FRT.

Asks why was this done, this way? Says the criminal court is silent on the term variant. The RIAS specifically says it is not part of the regulation but is the only place “and any variants” appears.

The RIAS doesn't have the authority to regulate. Says we aren't here to debate what happens in the future. Reads Latin - if you include one thing, you exclude another.

Judge asks if the law is not always speaking? It isn't static.

Meehan argues the law may always be speaking, but it needs an authority. The legal problem is these regulations, which have criminal liability, can not change in the future to catch more. You can't evergreen this legally.

Meehan argues legal advice vs opinion. By trying to ban future variants, cabinet is trying to regulate something that doesn't exist. There isn't authority for that.

Meehan moves to FRT. says the list of the unnamed variants only exists in the FRT. The FRT is used by police to formulate charges.

Reads from provincial court case out of SK. The case says the FRT proves the firearm prohibited. So the FRT is "proof" not opinion.

There is no authority given to the FRT to be proof. Judge says we don't know what else they had before them? It doesn't matter. The FRT was used as proof.

That's all that matters. It has no authority.

Meehan says you can challenge a rejection of a reg cert, but you can't challenge the FRT itself.

Crown said you could call the police and ask them, it's inappropriate.

Says these regulations don't imply respect into the future.

The RCMP don't have the authority to make "law"

Meehan finishes

Judge thanks everyone for their submissions. Nods to Mckinnons

Worries about the ruling and it's impacts.

Thanks everyone for their work

Court is adjourned.

That's it.

That's the case.

It rests with her now to decide.

Thanks for being here with me

Fin

Tracey Wilson signing off.

You can find all the supporting documents at PropertyJustice.ca

If you've made it this far, thank you!!!

Article written by [Tracey Wilson](#)