

## **Tories have 'faith' in get-tough gun sentences, but no evidence they'll work: Costly mandatory penalties sound good, but ministers misrepresent the studies they cite**

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By Dan Gardner

To the list of tactics, policies and affectations the Harper government has copied from the Bush administration, we can now add faith-based government.

"We anticipate some (increase)" in the prison population, said Public Safety Minister Stockwell Day last week when introducing legislation to expand the list of gun-related crimes subject to mandatory minimum penalties, and dramatically lengthen sentences for such offences. "We also believe there will be a deterring effect from getting serious about serious crime."

Naturally, Mr. Day didn't cite any research in support of his conclusion. He didn't need to. The government "believes." And as every man of faith knows, belief can conquer even the mightiest army of facts.

But for those of us in the reality-based community -- the famously dismissive phrase of a Bush official -- belief isn't good enough. We expect policy to be supported by facts and research. Perhaps that makes us lesser men and women, but we can't accept something as true simply because it's been given Stephen Harper's benediction. So where's the evidence that the government's radical, U.S.-style approach to criminal justice will make us safer? You won't find it on its website. There are lots of bold claims, of course. But in the press release and background information, there isn't a word about evidence.

The government has also refused to debate the issue. Many critics -- your correspondent included -- have noted that reams of studies and reports show that the Tory approach is expensive and futile. But as far as I can make out, neither Mr. Day nor Justice Minister Vic

Toews has written so much as a letter to the editor to explain why the critics are wrong.

In desperation, I started scanning Mr. Toews' interviews looking for any comment more substantive than trust-us-it-will-work. The closest thing I found was something Mr. Toews said in an interview on CTV's Canada AM. Critics say your approach won't work, the interviewer noted. How do you respond?

"Well, they're wrong." Mr. Toews answered. "That's not the experience in many other jurisdictions where targeted mandatory minimum prison sentences in fact have had a huge deterrent effect. There are numerous studies that have been conducted in the United States, especially on gun crimes, where we have seen a dramatic decrease in gun crimes. The evidence in Canada is not particularly persuasive one way or the other because we simply don't have the studies and the experiences with these types of mandatory minimum sentences."

That last sentence is misleading. In Canada, mandatory minimum sentences on gun crimes were introduced in 1995. Mr. Toews is right that they haven't been studied. One might think the government would commission a study and review the results before passing new mandatory minimums. But it has chosen not to.

No matter. Mr. Toews' statement about "numerous studies" in the U.S. is the closest the minister has come to grounding his claims in something more than his say-so.

Unfortunately, the interviewer didn't ask him to name some of the studies he had in mind. So I called Mr. Toews' office and asked. A spokesman called back with five studies. The first two were from 1997, he said. They looked at the effect of mandatory minimums in Boston. A third American study was dated 1983. A fourth was from 1995. And lastly, there was a Canadian study dated 1983. The spokesman provided full, academic citations. It made for an impressive list. But some odd things turned up when I took a closer look. It seems that the first two studies on the list were not done in 1997. They were from 1977. And that matters, because criminological research of this kind is fairly new and the methods

used in the 1970s are considered crude and unreliable today. Leaving that aside, the two 1977 studies did not reveal anything that could remotely be described as a "huge deterrent effect." The first actually found that the introduction of mandatory minimums in Massachusetts in 1975 had almost no effect on crime, while the second study found a reduction in armed robberies and gun assaults but no effect on homicides.

Mr. Toews' spokesman also failed to note that several other studies -- also methodologically flawed -- examined the effect of the Massachusetts laws and came to various, contradictory conclusions. Reviewing this cluster of studies, Thomas Marvell and Carlisle Moody -- respected economists who specialize in crime studies -- wrote that "conclusions are difficult."

Not an impressive start.

The third study is also underwhelming. Mandatory minimums had little impact on assaults and robberies, it found. The results on homicides were unclear. But the researchers continued their work and in later papers -- not cited by Mr. Toews' office -- they concluded that the laws did reduce homicides.

That may look like something, I suppose. But many experts, including Mr. Marvell and Mr. Moody, disputed even that tepid conclusion. The researchers didn't control for the fact nationwide homicide trends were declining, Mr. Marvell and Mr. Moody wrote, so the drop they spotted may just been part of that. So in reality, the study proves nothing.

That brings us to the fourth study, the last of the U.S. research cited by Mr. Toews' office. This is where things get really odd. The 1995 study is written by Mr. Marvell and Mr. Moody. It is the source of the comments by the two researchers which I cited above. This paper is much more ambitious than the earlier research. Rather than looking at a single jurisdiction, or several, Mr. Marvell and Mr. Moody examined the effects of mandatory minimums and other tough "sentence enhancements" on gun crimes across the U.S. Their conclusion: Gun-related mandatory-minimum sentences "do little to reduce crime or gun use."

When I called Mr. Moody at the College of William and Mary in Virginia and told him the Canadian government is citing his study as proof that mandatory minimums work, he laughed. The study proves exactly the opposite, he said. "I'm being misrepresented."

Today, more than a decade after the Moody and Marvell study was published, its conclusion is accepted by most criminologists in the U.S. "The consensus is that these (sentences) are not particularly effective," Mr. Moody said.

That leaves just one more item on the list provided by Mr. Toews' office. The Canadian study from 1983 did indeed find that robberies and homicides with firearms decreased after gun-related mandatory minimums came into force in 1977.

But there are some big problems with it. First, it didn't control for other potential explanations of the drop. Second, it suggested that offences committed with other weapons may have gone up. The authors also noted that at the same time the mandatory minimums were passed, new gun-control laws came into effect. That means, they wrote, that even if crime really did go down, it's impossible to say whether it was caused by the new sentences or the new gun controls.

So let us summarize. Mr. Toews' office cited five studies it said supported his claims about mandatory minimums having "huge deterrent effect."

Four of those studies were old and of questionable quality. Of those four, three provided weak support for the government. One suggested the opposite.

That leaves the most recent study, which is also the highest-quality work cited. It concluded Mr. Toews and the government are flat-out wrong.

It's not a terribly impressive record. And this is to say nothing of what Mr. Toews and the government have chosen to ignore: the very long list of studies and reports concluding that mandatory minimums are not an effective way to control gun crime, or crime in general.

There is, after all, a reason why experts have formed a consensus on the issue

Not that any of this will bother Mr. Harper or his ministers. They've got faith. And they've made it clear they have no intention of changing their minds, no matter what the research says.

It's the rest of us -- those who still value evidence and reason -- who should be concerned.