

The Irish Firearm Custody Order of August 1972 (2nd edition, 1st June 2008)

I have been collecting information about the firearm laws of the Republic of Ireland, as well as their effects, including associated levels of crime, for many years. It is over 10 years since I first noted the astonishing doubling of the homicide rate following the Firearm Custody Order of 1972. But I have only just realised that, within that disturbing development, was another one, even more startling.

In August 1972, the then Irish Minister of Justice, Mr Desmond O'Malley, used his powers to take into custody all the private, lawfully-owned and registered pistols and centre-fire rifles (other than .22/250 rifles), throughout the Republic. Under the Irish Firearms Act 1964, Clause 4 (1), the Minister was given the power, simply by Order, to demand that any or all firearms be handed in for a maximum of 1 month.

Since firearms registration had been a requirement for many years, the government already had lists of lawful gun-owners. So the collection was, of course, virtually 100%, **but only from those law-abiding citizens who had asked the government for permission to possess firearms**. As always, those who possessed guns illegally, whether for crime, terrorism, or any other purpose, were unaffected by the Custody Order.

The reasons for his action were given as the need to secure public safety and the escalating violence in Northern Ireland (which is part of the UK), even though the Republic of Ireland is completely independent of the UK.

The Irish government ignored the limitation of a maximum of 1 month contained in the Law and continued to strictly enforce it for 32 years with respect to pistols and substantially so with respect to rifles. Alongside the confiscation of all the registered firearms falling within the Custody Order, the government also blocked all further purchases by civilians.

The inevitable consequences were the destruction of much sport shooting and the closing down of many clubs and gun dealers.

The illegal extension of the Custody Order was only brought to an end in 2004 by a constitutional challenge by a private citizen, Frank Brophy, represented by barrister Gerard Hogan, SC.

Irish Murder Rate, pre- and post- the Custody Order

Prior to the Custody Order, the overall murder rate in the Republic for many years had been approximately 0.5 per 100,000, which is an extremely low rate by any standard, reflecting considerable credit on Irish society generally. With the introduction of the Custody Order, the murder rate immediately doubled to approximately 1 per 100,000 and stayed at the new level (which is still low by international standards), for the next 20 years, when it started to rise further.

Inside that disturbing development is hidden another one, even more startling.

Gardai (Police) Murder Rate, pre- and post- the Custody Order

Official records show that no Gardai Officers were murdered in the Republic between 1942 and April 1970. The first for 28 years was Officer Richard Fallon, who was murdered in Dublin during a bank raid in 1970. The story ran for weeks because it was such an unusual event in

Ireland.

He was shot with an unlicensed handgun.

No Gardai Officers were murdered in 1971.

Thus 1 Gardai Officer was murdered in the 29 years from 1942 to 1971.

After the Custody Ban the murder of Gardai Officers became much more common. **In the 29 years from 1972 to 2001, the following 13 Gardai officers (and 1 soldier, in a double murder) were murdered**, all with illegally-held pistols:

Samuel Donegan (1972), Michael Reynolds (1975), Michael Clerkin (1975), John Morley and Henry Byrne (1980), Seamus Quaid (1980), Patrick Gerard Reynolds (1982), Patrick McLoughlin (1983), Gary Sheehan and Pte Patrick Kelly (Irish Army) (1983), Frank Hand (1984), Patrick Morrissey (1985), Gerry McCabe (1996) and Andrew Callinan (1999).

Determining the cause(s) for dramatic changes in criminal behaviour patterns is not easy. It may be tempting to assume that the Custody Order was instrumental in the doubling of the overall homicide rate and the dramatic increase in the murders of Gardai Officers, but such a proposition is difficult to prove.

What is absolutely certain is that the government and Gardai had a clear obligation to closely monitor the results of such a drastic policy as the Custody Order.

And yet, despite the extremely rapid, negative results following the Custody Order, the government maintained this illegal, failed and unfair policy for 32 years and only abandoned it when forced to do so.

It should be noted that many gun-control advocates promote extremely severe procedures along the lines of the Irish Custody Order, with the object of banning civilian gun ownership entirely. It is often claimed that more moderate gun control policies fail because they are not drastic enough, nor maintained for long enough.

Well, the Irish "experiment" was extremely drastic and was maintained for 32 years, without any identifiable benefits whatsoever to compensate for the damage and gross injustice meted out to the lawful, registered gun-owners of the Republic of Ireland.

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NOTE

In 1995 Dr Enda Dooley of the Irish Ministry of Justice published a substantial Paper, "Homicide in Ireland, 1972 – 1992" (ISBN 0-7076-1502-X), in which considerable emphasis is placed on the fact that the average homicide rate over the period was only 1 per 100,000. No reference was made to the fact that the rate had been very much lower prior to 1972, nor to the fact that the 19% of Irish homicides committed with guns was double the rate in neighbouring UK, which had no firearm Custody Order and much higher civilian firearm ownership levels (the UK ban on pistols did not come into effect until 1997).