

Irish Firearm Custody Order of August 1972

In August 1972, the then Irish Minister of Justice, Mr Desmond O'Malley, used his powers to take into custody for 1 month, all the private, lawfully-owned and registered pistols and centre-fire rifles (other than .22/250 rifles), throughout the Republic. The escalating violence in Northern Ireland and the need to secure public safety were given as the reason for the action.

Entirely illegally, the Custody Order continued to be strictly enforced for 32 years with respect to pistols and substantially so with respect to rifles. It was only brought to an end in 2004 by a constitutional challenge by Frank Brophy, represented by barrister Gerard Hogan, SC.

Prior to the Custody Order, the overall murder rate in the Republic for the previous 20 years had been approximately 0.5 per 100,000, which is an extremely low rate by any international comparison. 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 overall seriously negative trend is hidden another one, even more startling.

Gardai (Police) Officer Murder Rate, 1942 to 1971 and 1972 to 2001

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 happening 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) were murdered, also with illegally-held pistols:

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

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 this case, but such a proposition is difficult to prove.

What is clear is that punishing the lawful gun-owners of Ireland certainly did not produce the desired end-result. Nevertheless, the government maintained its illegal, failed and unfair policy for 32 years and only abandoned it when forced to do so.

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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 murder 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% proportion of Irish murders by shooting was double the proportion in the neighbouring UK, which had no firearm Custody Order and much higher firearm ownership levels (the UK ban on pistols did not come into effect until 1997).*