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Shooting For Justice

The debate regarding mandatory minimum sentencing for possession of a loaded firearm has been the source of great controversy in Canada, as many people have argued their opinions but have ultimately failed to reach a consensus on an appropriate punishment. Each case regarding the unauthorized possession of a loaded firearm is different, and therefore judges believe that there should be room for interpretation when it comes to determining a suitable sentence for the accused. In the case discussed in the case study, Tiffany Tweeter was charged with possession of a loaded firearm after being caught attempting to take a “selfie” with her uncle’s loaded gun. The *Criminal Code* states that the mandatory minimum sentence for this offense is three years. However, the judge decided that this sentence violated Tweeter’s rights under the *Charter of Rights and Freedoms* and instead sentenced her to only one year imprisonment. As the outcome of this case shows, judges should have the right to give a different sentence than what is set out in the *Criminal Code*, as this code does not always interpret the nature of the offenses committed and may impose punishments that are not fair to the individual accused of the crime.

The mandatory minimum sentence for the possession of a loaded firearm has been a particularly hot topic in the Canadian government since 2008, when the Conservative government imposed the three-year minimum mandatory sentence for first offenders guilty of possessing a prohibited firearm and five years for repeat offenders. In November 2013, the Ontario Court of Appeal determined that these minimum sentences were “unconstitutional” and

should not be automatically enforced (Gabor and Crutcher). While those utilizing guns as threats of violence and hostility will continue to receive harsh sentences, the offenders who mean no harm such as Tiffany Tweeter do not deserve sentences quite as severe. It has been argued that the judges should be able to interpret each separate case as they see fit, and enforce a penalty that they deem fitting and acceptable as an outcome for the accused.

In the instance of Tiffany Tweeter, her Uncle Headnovel was out of town and asked her to watch the house. While at the house, she found a gun in a drawer and thought it would make a nice profile picture if she took a picture of herself holding this gun. Coincidentally, it was at this exact moment that the police came into the house to perform a search, and caught Tweeter holding this firearm. Initially, Tweeter was going to be given a three-year sentence as is the mandatory minimum, but the judge did as the Ontario Court of Appeal would recommend and interpreted the case, deciding that three years in prison is too much in this scenario. This case is a primary example of the reasoning behind the arguments against the mandatory minimum sentencing, since it is clear that Tweeter had no malicious intentions while holding the gun and, although an error of judgment was made while deciding to take the picture, was not likely going to even consider harming anyone with it. A three-year sentence for such a minor mistake would be outrageous and would violate Tiffany's rights under the *Charter of Rights and Freedoms*, meaning that the judge should ultimately be able to take facts of the case into consideration while coming to a verdict in cases like this one.

Although many consider the mandatory minimum sentence for possession of a loaded firearm to be harsh and inconsiderate of the mitigating factors and circumstances that may come with it, it can also be understood why the Canadian government would impose such a policy. Studies have shown that the vast majority of people committing gun crimes are aware of the laws

and regulations while performing the act, meaning that they know the potential punishment if they are caught and may be less likely to follow through with the act. It has also been proven that gun-related crimes have undergone a modest decrease since the initial enforcement of the minimum sentence in 1977, which was one year imprisonment (Research and Statistics Division 13-15). However, critics of the minimum sentence are typically not arguing the sentences of gun crimes that promote violence and endanger security, but rather the indictments of people who meant no harm while unintentionally violating the firearm policy. While it may be fair to impose a minimum sentence on criminal acts involving firearms, this sentence should not be carried over to cases in which the offense committed means no harm to people around them.

In conclusion, it can be agreed upon that Tiffany Tweeter made a major mistake in taking a loaded firearm out of her uncle's drawer and holding it. However, it can also be agreed upon that this is not nearly as serious a gun crime as many of the crimes committed in modern society. A minimum sentence of three years would be completely unfair and would not be an accurate punishment to the offense committed. As with any case regarding sentences set out in the *Criminal Code*, judges should not be obligated to give the outlined sentence, as every case is different and should be treated accordingly. Judges should have the ability to look into the case, be given proper evidence and testimony, and come to the decision that they feel best serves the punishment of the accused. Sometimes in law, one plus one does not equal two, but rather what the judge sees the best answer to be.