



FIREARMS CONTROL BRIEFING

THE LIFE-CYCLE OF A GUN: TRACKING HOW GUNS LEAK BETWEEN CRADLE AND GRAVE

INTRODUCTION

The purpose of the Firearms Control Act (FCA) is to “establish a comprehensive and an effective system of firearms control.”¹ In other words, the FCA aims to create an integrated system which regulates all guns in South Africa, from cradle to grave; including their manufacture, trade, possession, use and destruction. By controlling all these aspects, South Africa’s FCA-informed firearms control management system creates a sealed container in which all guns entering into, being used within and exiting from are documented, to ensure that these activities comply with the law.

However, since 2010 a range of incidents have come to light which show that SA’s firearms control management system is not a sealed container. Various sources, including court documents, parliamentary oversight reports and media exposés have identified numerous holes leaking guns into the illegal pool, which has no mechanisms in place to regulate possession or use.

Two of the most recent cases which illustrate the absence of an integrated firearms control management system with dire consequences for safety and security for individuals, families, communities and the country as a whole are:

1. The deliberate leakage of weapons by a senior police officer (Christiaan Prinsloo) from a secure South African Police Service (SAPS) store to gangsters in the Western Cape, with the assistance of an accredited firearms dealer (Alan Raves) and a business man (Irshaad Laher).
2. Uneven enforcement and compliance with section 24 of the FCA; this requires gun owners to renew their gun licences on a regular basis, thereby bringing South Africa in line with global norms: A comparative analysis of legislation governing civilian gun ownership in 42 countries found that only one (Finland) granted licences for an indefinite period, in all other states gun licences are renewed every one to 10 years.²

This Briefing has three sections:

- It starts by tracing the life-cycle of a gun from manufacture to possession, from use to destruction, as the first step to identifying how breakdowns in the firearms control management system (whether intentional or not) create holes through which guns leak into the illegal pool.
- It then identifies high profile incidents to highlight how breakdowns at different stages of a gun’s cradle-to-grave life-cycle facilitate leakage.
- It concludes with three key action steps to close holes in South Africa’s firearms control management system to address the tide of gun violence sweeping across the country: Accurate firearm-related record-keeping by the CFR; systematic gun licence renewals; and comprehensive stockpile management, including regular destructions.

¹ Introductory sentence to the Firearms Control Act (Act 60 of 2000).

² Small Arms Survey. 2011. States of Security. Cambridge: Cambridge University Press.



THE LIFE-CYCLE OF A GUN

Simplified graphic showing the life-cycle of a gun

Stage	Role-players	Summary of process
1. Manufacture (business) 	Licensed manufacturer Designated Firearms Officer (SAPS station) Central Firearms Registry (SAPS national)	Applicant completes application, including a competency certificate, which is submitted first to the DFO, then the CFR for approval. Licensed manufacturers are required to submit reports to the CFR, which is responsible for establishing a centralised manufacturers' database. ³
	 2. Trade (business)	Licensed gun dealer Designated Firearms Officer (SAPS station) Central Firearms Registry (SAPS national)
3. Possess (individual) 		Licensed gun dealer Accredited firearms training institution Designated Firearms Officer (SAPS station) Central Firearms Registry (SAPS national)
	 4. Use (individual)	Licensed gun owner Accredited association Accredited shooting range Designated Firearms Officer (SAPS station) Central Firearms Registry (SAPS national)
5. Misuse (individual) 		Guns fall outside firearms control management system after being sold, lost, stolen, given, lent or used illegally by licensed owner
	 6. Recover (state)	SAPS – station, province and specialist units Central Firearms Registry (national) Independent Police Investigative Directorate
7. Destroy (state) 		SAPS: DFO and province Central Firearms Registry (national)

³ Firearms Control Act (Act 60 of 2000), Chapter 7, Part 2.

⁴ Ibid, Chapter 7, Part 1.

⁵ Ibid, Chapter 6.

⁶ Ibid.

⁷ Ibid, Section 149.



HOLES IN SA’S FIREARMS CONTROL MANAGEMENT SYSTEM ARE LEAKING GUNS

As illustrated in the diagram above, there are a number of role-players and processes involved in SA’s firearms control management system, which aims at creating a sealed container and monitoring each and every gun as it moves from cradle to grave.

It’s important to note that the diagram above is an incredibly simplified, linear illustration. The reality is much more complex, involving a range of stakeholders who are too often either focused on exploiting the system for their own benefit or too overworked and under-resourced to effectively manage their responsibilities. Whatever the driver, SA’s firearms control management system isn’t being effectively maintained, and guns are leaking into the illegal pool at different stages of their life-cycle. Some of the more high-profile holes leaking guns are listed below:

A summary of holes at different levels of South Africa’s firearms control management system whereby guns leak from the legal to the illegal pool of weapons	
<p>Police station (includes Designated Firearms Officer)</p>	<ul style="list-style-type: none"> • <i>Guns handed in during 2010 amnesty found in arms cache:</i> In 2014 police recovered an arms cache that included R1, R4, R5 and AK-47 rifles and approximately 300 handguns in a raid on a Johannesburg home. Court proceedings revealed that some of the guns in the cache had been handed in to the police for destruction during the 2010 national firearms amnesty before being stolen and sold to criminals, allegedly by corrupt police officials.⁸ • <i>Senior police officer sentenced to 18 years for selling guns ‘destroyed’ by police to gangsters:</i> In 2015, a police intelligence campaign, Operation Combat, led to the arrest of Colonel Christiaan Prinsloo, a senior Gauteng police officer in charge of the SAPS Vereeniging Confiscated Firearms Store, for selling firearms handed in to the police for destruction to Western Cape criminals. After entering into a plea bargain with the state, Prinsloo was sentenced to 18 years for corruption, racketeering and theft in June 2016.⁹ • <i>Designated Firearms Officer sentenced to 13 years for fraud and corruption:</i> Lawrence Mamogobo, based at Pretoria Central police station, was sentenced to 13 years in mid-2015 after being convicted on 30 counts of corruption involving fraudulently selling falsified firearms training certificates, competency certificates and licences. He was one of 20 people that included two brigadiers, two colonels and 12 admin clerks who were suspended by SAPS management when allegations of corruption in the issuing of firearms licences at the CFR first emerged in 2013.¹⁰
<p>Central Firearms Registry (CFR)</p>	<ul style="list-style-type: none"> • <i>CFR’s most senior police officer fired for fraud and corruption:</i> Brigadier Mangwani, Section Head of the CFR was suspended with immediate effect and later fired for bribery and corruption related to firearms licensing.¹¹ • <i>CFR police officers arrested for selling fraudulent licences to gang leaders:</i> Three CFR officers were taken into custody for their alleged involvement in issuing fraudulent gun licences, including to 28s gang kingpin Ralph Stanfield. National Police Commissioner Riah Phiyega said the arrests were “just the tip of the iceberg in a probe into fake gun licences.”¹²

⁸ Hosken, Graeme. Cops leaking guns. The Times, 4 June 2014.

⁹ Mzantsi, Siyavuya. Former top cop jailed for illegal gun trade. Cape Times, 22 June 2016. Available online at www.iol.co.za/news/crime-courts/former-top-cop-jailed-for-illegal-gun-trade-2037112 (accessed 9 September 2017).

¹⁰ ANA Reporter. Ex-cop jailed over gun licences. The Star, 11 June 2015. Available online at www.iol.co.za/news/crime-courts/ex-cop-jailed-over-gun-licences-1870575#VXqU5EYThYw (accessed 9 September 2017).

¹¹ Serrao, Angelique. Top cop axed over gun saga. The Star, 7 April 2014. Available online at www.iol.co.za/news/crime-courts/top-cop-axed-over-gun-saga-1.1672115#VZU5CkYtg2E

¹² More arrests expected in sweeping probe of fake gun licences, Sunday Times, 29 June 2014.



<p>Accredited firearms training institution</p>	<ul style="list-style-type: none"> • <i>Police close illegal KZN training academy:</i> A 2015 joint SAPS operation swooped on a Richards Bay firearms training academy which had been running illegally since 2009, making all firearms certificates issued by the academy invalid.¹³ • <i>Journalist buys fake gun proficiency certificate:</i> The exposé shows the secretary of the South African Professional Firearm Trainers Council (which, on 6 March 2015 was appointed by SAPS as the national body responsible for ensuring the quality of firearms proficiency certification) selling a proficiency certificate to a journalist without her having received any training.¹⁴
<p>Accredited firearms dealer</p>	<ul style="list-style-type: none"> • <i>Hawks investigate one of South Africa's biggest gun dealers:</i> In 2013 Dave Sheer Guns was identified by the Hawks as being at the centre of a large-scale corruption racket involving bribery and creating fraudulent permits to export weapons and ammunition to conflict countries including Sudan and Syria. An employee claimed that she paid bribes to police officers and lied to clients as part of her job as a sales manager.¹⁵ To date, there have been no arrests. • <i>Gun dealer accused of helping to sell stolen guns to gangsters:</i> Alan Raves, a Vereeniging-based gun dealer, is currently standing trial as an accomplice to Christiaan Prinsloo, the ex-police colonel sentenced to 18 years for selling guns earmarked for destruction in police stores to gangsters in the Western Cape.¹⁶
<p>Individual gun owner</p>	<ul style="list-style-type: none"> • <i>Individual gun owners are a major source of illegal guns:</i> During the 2015-16 financial year, 8,175 firearms were reported as either lost or stolen, an average of 22 guns a day; of these 20 were civilian owned and 2 were state owned.¹⁷ • <i>Individual gun owners aren't complying with the FCA:</i> For instance, a recent case heard in the North Gauteng High Court revealed that some gun owners are not renewing their gun licences in accordance with section 24 of the FCA, which requires gun owners to renew their gun licences 90 days before expiry; non-compliance is exacerbated because the police have been enforcing section 24 sporadically – accepting late applications at some stations but not at others.¹⁸

3 KEY ELEMENTS TO STRENGTHEN SA'S FIREARMS CONTROL MANAGEMENT SYSTEM

As illustrated in the graphic and summary table above, South Africa's firearms control management system is failing, and more and more guns are leaking into the illegal pool. The problem is that guns are robust commodities that are often highly sought by people who wouldn't be allowed to legally own them (e.g. due to a history of violence or a criminal record). If government is serious about strengthening South Africa's

¹³ Police swoop on firearm training academy, Daily News, 23 January 2015. Available online at www.iol.co.za/news/crime-courts/police-swoop-on-firearm-training-academy-1808360#.VZVYP0YTg2E (accessed 26 August 2017).

¹⁴ SABC exposes the fraudulent sale of firearm proficiency certificates, SABC, 22 February 2016. Available online at www.sabc.co.za/news/a/51b2ce804bc784a4b531b596fb2bb898/SABC-exposes-the-fraudulent-sale-of-firearm-proficiency-certificates-20160222 (accessed 26 August 2017).

¹⁵ Serrao, Angelique and Solly Maphumulo. Firearm shop suspects nabbed at airport. The Star, 12 July 2013. Available online at www.iol.co.za/news/crime-courts/firearm-shop-suspects-nabbed-at-airport-1545671#.VZU2zUYTg2E and Serrao, Angelique. SA man 'sold conflict arms'. Saturday Star, 20 July 2013. Available online at www.iol.co.za/news/crime-courts/sa-man-sold-conflict-arms-1549911#.VZVeD0YTg2E (accessed 9 September 2017).

¹⁶ Dolley, Caryn. Confidential info leak in stolen cop guns case involving 3 028 dockets. News24, 26 May 2017. Available online at www.news24.com/SouthAfrica/News/exclusive-confidential-info-leak-in-stolen-cop-guns-case-involving-3-028-dockets-20170526 (accessed 9 September 2017).

¹⁷ South African Police Service 2015-2016 Annual Report. Available online at www.saps.gov.za (accessed 9 September 2017).

¹⁸ North Gauteng High Court. Judgement in the matter between the South African Hunters and Game Conservation Association: Applicant and the Minister of Safety and Security of the Republic of South Africa: Respondent, Case number 21177/2016, 4 July 2017. Judgement available online at www.saflii.org/za/cases/ZAGPPHC/2017/299.html (accessed 9 September 2017).



firearms control management system to stop the growing flood of gun violence across the country, then the following three actions to regulate guns over their life-cycle are urgent:

1. ACCURATE RECORD-KEEPING

It is accepted across the world that accurate record-keeping is a cornerstone of effective firearms control because being able to trace any gun at any time is a basic preventive measure to stop the leakage of guns from the legal to the illegal pool. Records are generally kept across the life-cycle of a firearm, from cradle to grave. Record-keeping involves collecting and updating information in order to “facilitate the identification of any weapon, its legal status and the location of its storage, at a given stage of its life.”¹⁹

Section 124 of the FCA describes in detail the core function of the CFR: Keeping up-to-date records of who owns what firearm for which purpose. Since 2010 a number of shortcomings have been identified which compromise the reliability of record-keeping at the CFR.²⁰ In addition to irregularities and corruption in the issuing of firearms licences, permits and authorisations (see table above); a major risk is that there is still no single electronic database system to process and store firearm-related records.

Recommendations

- **Address fraud and corruption in the firearms control management chain.** Given the transactional nature of the firearms industry, fraud and corruption are risks which must be managed. SAPS needs to put in place urgent measures to close holes, which includes finalising a single electronic database system to process and store up-to-date firearm-related records.
- **Conduct an audit** of all firearms licences, permits and certificates issued by the CFR since 2011 to verify the integrity of records.

2. SYSTEMATIC FIREARMS LICENCE RENEWALS

The system of firearms licence renewals is an integral part of a firearms control management system, allowing the state to confirm that a gun owner remains “fit and proper” to own a gun, requiring that genuine need for the continued ownership of a gun be proven and making provision for the legal gun owner to reaffirm responsibility for his/her gun.²¹ It is therefore the state’s responsibility to ensure that it enforces legislation uniformly so that gun owning members of the public are in no doubt that the letter of the law is applied across the board, with no exceptions; which will in turn encourage compliance by gun owners.

Recommendations

- **Prioritise the setting down of a 2009 High Court Interim Order** which exempts gun owners with licences under the 1969 Arms and Ammunition Act from having to apply for licences under the FCA.²²
- **Adopt a uniform three-year period of licence renewals.** Currently the gun licence renewal period in the FCA varies from two to 10 years. International good practice suggests that three years is the optimal period for renewals to ensure that both need and fitness criteria are adhered to.²³

¹⁹ The Organization for Security and Co-operation in Europe. 2003. Best Practice Guide on Marking, Record-Keeping and Traceability of Small Arms and Light Weapons. OSCE. Vienna. p.8.

²⁰ Civilian Secretariat for Police. n.d. Enquiry into the Functioning of the Central Firearms Registry and Related Aspects of the Firearms Control Act, 2000 (Act 60 of 2000).

²¹ International Small Arms Control Standards. ISACS 03.30:2015 (E) V1.0ISACS.

²² In 2009 Judge Bill Prinsloo granted a court order in the North Gauteng High Court to the SA Hunters and Game Conservation Association, declaring that firearms licences obtained under the 1969 Arms and Ammunition Act remain valid pending the final outcome of the Association's application to have certain sections of the FCA declared unconstitutional. Eight years later the interim order (under which more than one million gun owners have not yet re-applied for licences under the FCA) has still not been set down for a hearing as the Minister of Police has not filed an answer, thereby preventing full enforcement of the Act.

²³ International Small Arms Control Standards. ISACS 03.30:2015 (E) V1.0ISACS.



3. COMPREHENSIVE STOCKPILE MANAGEMENT, INCLUDING REGULAR DESTRUCTIONS

As a signatory to various international and regional treaties (including the UN Programme of Action,²⁴ Arms Trade Treaty²⁵ and SADC Protocol²⁶), South Africa is legally obliged to develop and implement measures to secure ammunition and weapon stockpiles, which includes guns and ammunition held in SAP 13 stores.

A central component of stockpile management involves regularly destroying forfeited, recovered and surplus stocks to prevent the loss and/or theft of weapons and ammunition from the legal market to the illicit market, thereby enhancing public safety by reducing the risk of these falling into the wrong hands.

Recommendation

- **Implement SAPS recommendations based on loss and theft of guns.** In a comprehensive analysis of the chain of events that allowed Christiaan Prinsloo to steal 2,400 earmarked-for-destruction guns in police custody, SAPS' Legal Services has identified a range of holes in the management of SAPS-held weapons and ammunition stockpiles, as well as remedial action. The list is lengthy and detailed, including recommending that clear SAPS National Instructions regarding the storage and destruction of firearms are developed and that regular and ongoing assurance evaluations of stores and destructions are undertaken.²⁷ GFSA views this document as an invaluable blueprint to closing holes in South Africa's firearms control management system, and we urge that the author be interviewed to gain as much insight as possible into gaps and remedial action and that these be incorporated into policy and practice.

CONCLUSION

In an ideal world, people's lives can be tracked from cradle to grave – babies are born, they're nurtured through infancy and childhood to become well-rounded adults; inspiring, mentoring, contributing, until they die in peace, mourned by those whose lives they've touched.

While there are numerous risks that people face on this journey, an increasing risk in South Africa is gun violence.

Guns are designed for one reason – to kill. One of the ways to reduce this risk is to rigorously control guns. As this Briefing has shown, when guns are not regulated from cradle to grave through a comprehensive firearms control management system, people's lives are at increasing danger of being lost or damaged to gun violence.

South Africa's FCA has saved thousands of lives, but poor enforcement and compliance has reversed these gains. This Briefing identifies three actions – accurate record-keeping; systematic gun licence renewals; and comprehensive stockpile management, including regular destructions – as key to reclaiming the gains in lives saved. If these three actions are immediately implemented, more people – sons, and daughters, brothers and sisters, fathers and mothers – will be able to nurture, inspire, mentor and contribute to South Africa.

²⁴ United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA) is available at www.un.org/disarmament/convarms/salw/programme-of-action/ (accessed 11 September 2017).

²⁵ United Nations Arms Trade Treaty (ATT) is available at www.un.org/disarmament/convarms/att/ (accessed 11 September 2017).

²⁶ The Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community (SADC Protocol) is available at www.poa-iss.org/RegionalOrganizations/SADC/Instruments/SADC%20Protocol.pdf (accessed 25 August 2016).

²⁷ South African Police Service's Legal Services. 2016. Back to Basics – Towards a Safer Tomorrow. Submitted as item JV13 in a Founding Affidavit in the Labour Court of South Africa, Cape Town in the matter between the Police and Prisons Civil Rights Union (POPCRU): First Applicant, Peter Anthony Jacobs: Second Applicant, and Jeremy Alan Vearey: Third Applicant; and the Minister of Police: First Respondent, the Acting National Commissioner of Police: Second Respondent, the Provincial Commissioner of Police: Third Respondent, the Deputy National Commissioner: Human Resource Management: General Ngwenya: Fourth Respondent, Major General Mzandile L Tiyo: Fifth Respondent, Major General Sumisani Patrick Mbotho: Sixth Respondent, and the South African Police Service: Seventh Respondent, Case number 768/16.