



## FIREARMS CONTROL BRIEFING

### WOMEN UNDER THE GUN: ACTIONS TO PROTECT WOMEN FROM GUN VIOLENCE

#### INTRODUCTION: VIOLENCE AGAINST WOMEN

##### GLOBALLY<sup>1</sup>

Although women and girls are much less likely to be victims of homicide than men and boys (19% of homicide victims globally are female), they bear the greatest burden of intimate partner/family-related homicide, and intimate partner homicide.

Of the 87,000 women murdered across the world in 2017 (the most recent year for which data are available), more than half (58% or 50,000) were killed by intimate partners or other family members, and more than a third (30,000) were killed by their current or former intimate partner – someone they would normally trust.

##### AFRICA<sup>2</sup>

Women and girls in Africa are particularly vulnerable to being killed by intimate partners or other family members:

- More than two thirds of all women (69%) killed in Africa in 2017 were killed by intimate partners or other family members; and with an intimate partner/family-related homicide rate of 3.1 per 100,000 female population (significantly higher than the global rate of 1.3/100,000), Africa is the region where women run the greatest risk of being killed by an intimate partner or other family member.
- Over a third (38%) of females killed purely by intimate partners (not including other family members) in 2017 were from Africa. Africa was also the region with the highest rate (1.7 per 100,000 female population, double the global rate of 0.8/100,000) of females killed purely by intimate partners that year.

##### SOUTH AFRICA

In 2016 the United Nations Human Rights Commission described violence against women and girls in South Africa as “widespread, at a high level and normalised,” noting that the country has one of the highest rates of femicide (homicide of females) in the world.<sup>3</sup> A 2009 national femicide study showed that while national femicide rates had declined from 1999, intimate partner violence (IPV) had risen in this time to become the leading cause of death for women: 57% of female homicides in 2009 were committed by an intimate partner, up from 50% in 1999, though the researchers note that these figures are likely to be higher as e.g. in over 20% of femicides in 2009 no perpetrator was identified.<sup>4</sup>

#### MOST MURDERS BY INTIMATE PARTNERS ARE NOT RANDOM

Global research shows that the killing of women and girls by intimate partners is not random or spontaneous.<sup>5</sup> This means that it is possible to identify factors and characteristics that increase the risk of intimate partner homicide, including:

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<sup>1</sup> United Nations. 2019. Gender-related killing of women and girls. Global Study on Homicide. Vienna: UNODC.

<sup>2</sup> Ibid.

<sup>3</sup> United Nations Human Rights Council. 2016. Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to South Africa (4 to 11 December 2015), p. 4.

<sup>4</sup> Abrahams, Naeemah, Shanaaz Mathews, Rachel Jewkes, and Carl Lombard. 2012. Every Eight Hours: Intimate femicide in South Africa 10 years later. MRC Research Brief, August. Tygerberg: South African Medical Research Council.

<sup>5</sup> Adams, David. 2007. Why Do They Kill? Men Who Murder Their Intimate Partners. Nashville, Tennessee: Vanderbilt University Press. Cited in United Nations. 2019. Gender-related killing of women and girls. Global Study on Homicide. Vienna: UNODC.



## Motivation

Typical reasons reported by men for having killed an intimate partner include possessiveness, jealousy and fear of abandonment.<sup>6</sup> For instance, a recent Australian study on intimate partner homicide found that almost half of the men killed their partner within three months of the relationship ending.<sup>7</sup>

## History of violence

Violence against women can be seen as a continuum,<sup>8</sup> ranging from slaps, punches and kicks, to assaults with a weapon and, ultimately, homicide.<sup>9</sup> An in-depth study of 105 men who had killed an intimate partner found that the majority of perpetrators had had ongoing disputes with their partners, which included subjecting them to violence prior to the killing.<sup>10</sup>

Violence against women is almost universally underreported.<sup>11</sup> Research in developing countries has found that the most frequently mentioned reasons for not reporting violence include embarrassment, anticipation that the police will not take the charge seriously, the belief that gender-related violence is a normal part of life that women must bear, and concern about the well-being of others.<sup>12</sup> Despite underreporting, the data show clearly that the level of both physical and sexual violence experienced by women is highest in countries in Africa, which coincides with high overall female gender-based homicide rates.<sup>13</sup>

## Characteristics<sup>14</sup>

Studies comparing homicide perpetrators show that, on average, intimate partner homicide perpetrators are:

- Better educated, having achieved a higher level of school education.
- More likely to be employed.
- Less likely to have a criminal record.

Some studies have also shown that, on average, both victims and offenders in intimate partner homicide are older than victims of non-intimate partner homicide. Moreover, couples with large age discrepancies were found to be at a particularly high risk for this type of homicide, especially when the male partner was around 15 years older than the female partner.

## ALCOHOL AND FIREARMS INCREASE HOMICIDE RISK

Two other factors, alcohol and the presence of a firearm, have been shown to increase the risk of all types of homicide, including femicide:

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<sup>6</sup> Belknap, Joanne, Dora-Lee Larson, Margaret Abrams, Christine Garcia, and Kelly Anderson-Block. 2012. Types of intimate partner homicides committed by women: self-defense, proxy/retaliation, and sexual proprietariness. *Homicide Studies*, Vol. 16, No. 4 (November), pp. 359–379. Cited in United Nations. 2019. Gender-related killing of women and girls. *Global Study on Homicide*. Vienna: UNODC.

<sup>7</sup> Australian Domestic and Family Violence Death Review Network. 2018. *Data Report 2018*. Sydney: Domestic Violence Death Review Team, p. xii. Cited in United Nations. 2019. Gender-related killing of women and girls. *Global Study on Homicide*. Vienna: UNODC.

<sup>8</sup> Dobash, Rebecca, Russell Dobash, Kate Cavanagh, and Ruth Lewis. 2004. Not an ordinary killer: just an ordinary guy – when men murder an intimate woman partner. *Violence against Women*, Vol. 10, No. 6 (June), pp. 577–605. Cited in United Nations. 2019. Gender-related killing of women and girls. *Global Study on Homicide*. Vienna: UNODC.

<sup>9</sup> Watts, Charlotte, and Cathy Zimmerman. 2002. Violence against women: global scope and magnitude. *The Lancet*, Vol. 359, No. 9313 (April), pp. 1232–1237. Cited in United Nations. 2019. Gender-related killing of women and girls. *Global Study on Homicide*. Vienna: UNODC.

<sup>10</sup> Dobash, Rebecca and Russell Dobash. 2015. *When Men Murder Women*. New York: Oxford University Press. Cited in United Nations. 2019. Gender-related killing of women and girls. *Global Study on Homicide*. Vienna: UNODC.

<sup>11</sup> Watts, Charlotte, and Cathy Zimmerman. 2002. Violence against women: global scope and magnitude. *The Lancet*, Vol. 359, No. 9313 (April), pp. 1232–1237. Cited in United Nations. 2019. Gender-related killing of women and girls. *Global Study on Homicide*. Vienna: UNODC.

<sup>12</sup> Palermo, Tia, Jennifer Bleck, and Amber Peterman. 2014. Tip of the iceberg: reporting and gender-based violence in developing countries. *American Journal of Epidemiology*, Vol. 179, No. 5 (March), pp. 602–612. Cited in United Nations. 2019. Gender-related killing of women and girls. *Global Study on Homicide*. Vienna: UNODC.

<sup>13</sup> United Nations. 2019. Gender-related killing of women and girls. *Global Study on Homicide*. Vienna: UNODC.

<sup>14</sup> Ibid.



### DANGEROUS ALCOHOL USE

Research shows that approximately 37% of homicide perpetrators were under the influence of alcohol when committing the offence.<sup>15</sup> Moreover, research suggests that the link between violent behaviour and alcohol is linked to heavy episodic drinking rather than overall alcohol consumption.<sup>16</sup> While drug use is a factor, research, including in South Africa, confirms a stronger association between drug use and acquisitive crime than between drug use and violent crime.<sup>17</sup>

### FIREARMS

Guns are the leading cause of murder globally: Over half (54%) of homicides worldwide in 2017 were committed with a firearm, followed by a sharp object (22%).<sup>18</sup>

In unpacking the link between firearms and homicide risk, research globally shows that countries and regions with high rates of gun-related murder also have high rates of:

- Income inequality (measured by the Gini coefficient, which calculates relative wealth and the inequality of wealth distribution).
- Young people among the general population.
- Civilian-held guns per person; this factor is more relevant in developing countries.

All of these factors are present in South Africa:

<i>Income inequality</i>	✓	A 2018 World Bank report identified SA as having one of the highest levels of economic inequality in the world. <sup>19</sup>
<i>Young population</i>	✓	As of mid-2019, young people make up 64% of SA’s population (28.8% are children aged 0-14 years and 35.1% are youth aged 15-34). <sup>20</sup>
<i>High civilian gun ownership</i>	✓	There are an estimated 5,4 million civilian held legal and illicit firearms in SA. <sup>21</sup> This is an average of: <sup>22 23</sup> - 10 guns for every 100 SA residents - 14 guns for every 100 adults (aged 18+)

<sup>15</sup> Kuhns, Joseph, Lyn Exum, Tammatha Clodfelter, and Martha Bottia. 2014. The prevalence of alcohol-involved homicide offending: A meta-analytic review. *Homicide Studies*, Vol. 18, No. 3. (August), pp. 251–270. Cited in United Nations. 2019. Understanding homicide: typologies, demographic factors, mechanisms and contributors. Global Study on Homicide. Vienna: UNODC.

<sup>16</sup> Weiss, Douglas, Alexander Testa, and Mateus Rennó Santos. 2018. Hazardous alcohol drinking and cross-national homicide rates: the role of demographic, political, and cultural context. *Journal of Drug Issues*, Vol. 48, No. 2 (April), pp. 246–268. Cited in United Nations. 2019. Understanding homicide: typologies, demographic factors, mechanisms and contributors. Global Study on Homicide. Vienna: UNODC.

<sup>17</sup> UNODC elaboration of data provided by Medical Research Council of South Africa. Cited in United Nations. 2019. Understanding homicide: typologies, demographic factors, mechanisms and contributors. Global Study on Homicide. Vienna: UNODC.

<sup>18</sup> United Nations. 2019. Understanding homicide: typologies, demographic factors, mechanisms and contributors. Global Study on Homicide. Vienna: UNODC.

<sup>19</sup> The World Bank. 2019. The World Bank in South Africa. (Online). Available at [www.worldbank.org/en/country/southafrica/overview](http://www.worldbank.org/en/country/southafrica/overview) (accessed 17 August 2019).

<sup>20</sup> Statistics South Africa. 2019. SA population reaches 58.8 million, 29 July. (Online). Available at [www.statssa.gov.za/?p=12362](http://www.statssa.gov.za/?p=12362) (accessed 18 August 2019).

<sup>21</sup> Karp, Aaron. 2018. Estimating global civilian-held firearms numbers. Briefing Paper June. Geneva: Small Arms Survey.

<sup>22</sup> Rate based on SA’s 2017 mid-year population estimate of 56,521,948 to align with Karp’s estimate of civilian-gun ownership that year less 19,579,000 children aged 0-17 years.

Sources:

- 2017 population estimate of 56,521,948: Statistics South Africa. 2017. Mid-year population estimates, 2017. (Online) Available at [www.statssa.gov.za/publications/P0302/P03022017.pdf](http://www.statssa.gov.za/publications/P0302/P03022017.pdf) (accessed 18 August 2019).

- 2017 population aged 0-17 years of 19,579,000: Hall, Katharine. 2018. Children in South Africa. Children's Institute. (Online). Available at <http://childrencount.uct.ac.za/indicator.php?domain=1&indicator=1#6/-28.692/24.698> (accessed 18 August 2019).

<sup>23</sup> To contextualise, the rates of civilian gun ownership per 100 population for SA’s neighbours are: Botswana 4.1, Mozambique 4.5, Namibia 15.4 and Zimbabwe 2.8; and for BRICS countries are: Brazil: 8.3, Russia: 12.3, India: 5.3 and China: 3.6. Source: Karp, Aaron. 2018. Estimating global civilian-held firearms numbers. Briefing Paper June. Geneva: Small Arms Survey.



## GUN VIOLENCE AGAINST WOMEN

### Globally

Research shows that:

- Countries with high rates of homicide in general have higher rates of femicide.<sup>24</sup>
- The risk of femicide is closely related to gun use, both in the home and in public spaces (e.g. being attacked by gangs and organised crime syndicates): Countries with low femicide rates generally have low rates of gun use, while countries with high rates of femicide have raised gun use rates.<sup>25</sup>
- While firearms are the third leading cause of homicide amongst women globally (following sharp- and other-related homicides), intimate partner homicide and family-related homicide is more likely to be perpetrated with a firearm.<sup>26</sup>
- The high percentage of guns used in intimate-femicide-suicide is attributed to the lethality of guns and the ease with which they can be used, with a gun being up to 12 times more likely to result in death than a non-firearm assault in interpersonal violence.<sup>27</sup>
- The four main types of threatening gun-related behaviour used by men in IPV is: Threatening to shoot their partner; cleaning, holding, or loading a gun during an argument; threatening to shoot a person or pet the partner cared about; and discharging the weapon during an argument with their partner.<sup>28</sup>

### South Africa

South Africa's homicide steadily declined between 2000 and 2011, a trend attributed to stricter gun control coinciding with the passing and implementation of the Firearms Control Act (2000).<sup>29</sup>

Femicide rates also declined in this time: A study by the Medical Research Council has shown that the number of women killed by their intimate partner dropped from four women a day in 1999 (translating into one woman killed every six hours) to three women a day (one every eight hours) in 2009.<sup>30</sup>

As shown in Graph 1,<sup>31</sup> the reason for this drop in intimate femicide is a substantial decline in the number of women that were shot and killed compared to deaths resulting from stab and blunt injuries, with gunshot-related deaths almost halving from 30.6% in 1999 to 17.4% in 2009. Of significance is that this study also confirmed that gunshot-related deaths were not replaced by deaths from other weapons – both stab-and blunt-related deaths dropped slightly, from 33.2% to 31.4% and 33.2 to 29.5% respectively – indicating that weapon substitution did not occur, and that the overall benefit of reducing gun deaths is lives saved.

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<sup>24</sup> Alvazzi del Frate, Anna. 2011. When the Victim is a Woman. Geneva Declaration Secretariat. Global Burden of Armed Violence 2011. Lethal Encounters. Cambridge: Cambridge University Press, pp. 113-144.

<sup>25</sup> Ibid.

<sup>26</sup> United Nations. 2019. Understanding homicide: typologies, demographic factors, mechanisms and contributors. Global Study on Homicide. Vienna: UNODC.

<sup>27</sup> Shaw, Margaret. 2013. Too Close to Home – Guns and Intimate Partner Violence. Small Arms Survey 2013: Everyday Dangers. Cambridge: Cambridge University Press.

<sup>28</sup> Rothman, Emily, David Hemenway, Matthew Miller, Deb Azrael, 2005. Batterers' Use of Guns to Threaten Intimate Partners. Journal of the American Medical Women's Association, Vol. 60, No. 1, pp. 62–68.

<sup>29</sup> Kriegler, Anine. 2019. BOX 4: Long-term homicide dynamics in South Africa. United Nations. 2019. Homicide trends, patterns and criminal justice response. Global Study on Homicide. Vienna: UNODC, which references:

– Matzopoulos, Richard, Mary Lou Thompson, and Jonathan Myers. 2014. Firearm and Nonfirearm Homicide in 5 South African Cities: A Retrospective Population-Based study. American Journal of Public Health, Vol. 104, No. 3, pp. 455-460.

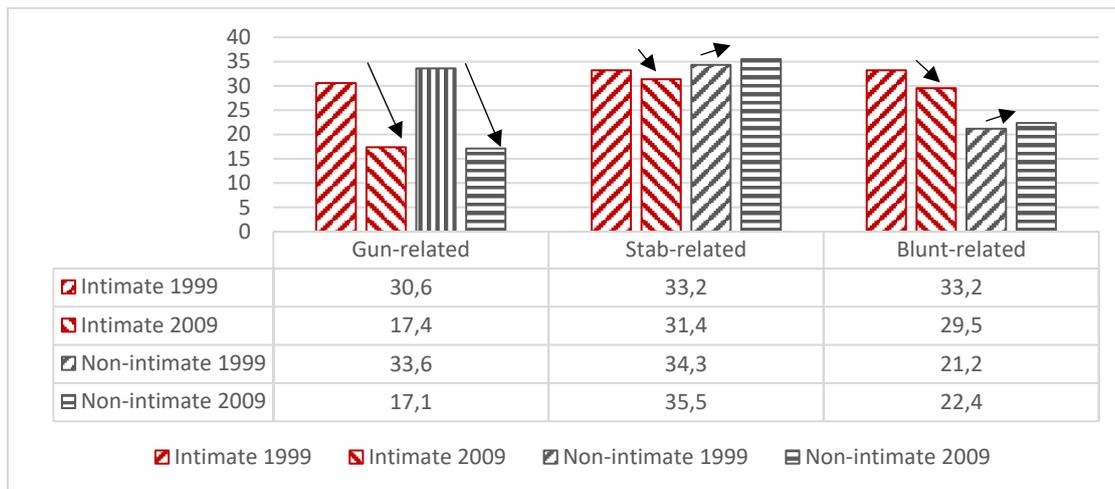
– Matzopoulos, Richard, Megan Prinsloo, Victoria Pillay-van Wyk, Nomonde Gwebushe, Shanaaz Mathews, Lorna Martin, Ria Laubscher, Naeemah Abrahams, William Msemburi, Carl Lombard, and Debbie Bradshaw. 2015. Injury-related mortality in South Africa: a retrospective descriptive study of postmortem investigations. Bull World Health Organisation, Vol 93, pp. 303-313.

<sup>30</sup> Abrahams, Naeemah, Shanaaz Mathews, Rachel Jewkes, and Carl Lombard. 2012. Every Eight Hours: Intimate femicide in South Africa 10 years later. MRC Research Brief, August. Tygerberg: South African Medical Research Council.

<sup>31</sup> Abrahams, Naeemah, Shanaaz Mathews, Lorna Martin, Carl Lombard, and Rachel Jewkes. 2013. Intimate Partner Femicide in South Africa in 1999 and 2009. PLOS Medicine, Vol. 10, No. 4, pp. 1-8.



**Graph 1: Manner of death for women killed by intimate and non-intimate partners in South Africa in 1999 and 2009 (%)**



However, since 2011, South Africa’s homicide rate has steadily risen: Between 2011/12 and 2017/18 murder increased 30% (from an average of 43 to 56 murders a day).<sup>32</sup> In keeping with the global finding that homicide rates track femicide rates, the number of women that are killed has also increased: As of 2018, an estimated eight women are murdered a day, three of whom are shot and killed;<sup>33</sup> this is a 50% increase from 2009 when two women were shot and killed a day.<sup>34</sup>

A review of 21 gun-related femicides in 2019 for which detailed information on the victims and circumstances can be found (the figure of 21 was chosen to represent the number of women shot and killed every week in South Africa as of 2018) shows that women and girls are shot in a range of circumstances including intimate partner and family violence, predatory crime and gang-related violence.<sup>35</sup>

<sup>32</sup> South African Police Service national annual crime statistics. (Online). Available at [www.saps.gov.za/services/crimestats.php](http://www.saps.gov.za/services/crimestats.php) (accessed 19 February 2019).

<sup>33</sup> Figure calculated based on the following:

- South African Police Service 2017-2018 annual crime statistics, which show that 41.3% of the 20,336 murders that year were gun-related. Source: South African Police Service 2017–2018 national annual crime statistics, available online [www.saps.gov.za/services/crimestats.php](http://www.saps.gov.za/services/crimestats.php) (accessed 19 February 2019).
- The most recent national mortality study which shows that 11% of gun homicide victims are female. Source: Matzopoulos, Richard, Megan Prinsloo, Victoria Pillay-van Wyk, Nomonde Gwebushe, Shanaaz Mathews, Lorna Martin, Ria Laubscher, Naeemah Abrahams, William Msemburi, Carl Lombard, and Debbie Bradshaw. 2015. Injury-related mortality in South Africa: a retrospective descriptive study of postmortem investigations. Bull World Health Organisation, Vol 93, pp. 303-313.

<sup>34</sup> Matzopoulos, Richard, Megan Prinsloo, Victoria Pillay-van Wyk, Nomonde Gwebushe, Shanaaz Mathews, Lorna Martin, Ria Laubscher, Naeemah Abrahams, William Msemburi, Carl Lombard, and Debbie Bradshaw. 2015. Injury-related mortality in South Africa: a retrospective descriptive study of postmortem investigations. Bull World Health Organisation, Vol 93, pp. 303-313.

<sup>35</sup> Gun Free South Africa Infographic: Symbolising the 21 women shot & killed every week in South Africa. (Online). Available at <https://bit.ly/2LeoX8s> (accessed 27 August 2019).



## POLICY INTERVENTIONS TO PROTECT WOMEN FROM GUN VIOLENCE

Policy interventions to protect women from gun violence can be classified into two broad categories, reactive and proactive:

	<i>Reactive</i>	<i>Proactive</i>
<i>Purpose</i>	Remove guns in the possession of individuals with a history of violent behaviour	Prohibit individuals with a history of violent behaviour from accessing guns
<i>Policies to disarm abusers</i>	<ul style="list-style-type: none"> <li>- Immediate removal of firearms from IPV situations</li> <li>- Declaration of unfitness</li> <li>- Surrender of firearms following conviction for violence and/or declaration of unfitness</li> </ul>	<ul style="list-style-type: none"> <li>- Updated nationwide register of violent individuals (violence is not limited to IPV, but must include all forms of violence)</li> <li>- Comprehensive background checks on all gun-related applications, including regular licence renewals</li> </ul>

## SOUTH AFRICA

### REACTIVE: REMOVING GUNS FROM INDIVIDUALS WITH A HISTORY OF VIOLENT BEHAVIOUR

In keeping with international research which shows that removing guns after IPV is less effective than restricting access to people with a history of abuse,<sup>36</sup> South Africa's Domestic Violence Act (1998) and Firearms Control Act (2000) allow the courts and/or the police to immediately remove a firearm from a gun owner who is violent. However, as described below, this rarely happens.

### The Domestic Violence Act (DVA)

The DVA allows magistrates' courts to grant interim and permanent protection orders ordering the respondent to stop their abusive behaviour. The court can also order the police to remove a gun or any other dangerous weapon from the respondent, whether the respondent owns the gun or simply has access to it. Section 9 of the DVA allows a magistrate to issue such an order if:

1. The respondent has threatened or expressed the intention to kill or injure himself or herself, or any other person in the domestic relationship, whether or not this would be with the firearm or other dangerous weapon.
2. Possession of the firearm is not in the interests of the victim or any other person in the domestic relationship because of the respondent's i). State of mind or mental condition; ii). Inclination to violence; iii). Use of or dependence on intoxicating liquor or drugs.

### Challenges in implementing the DVA

The process for having magistrates' courts remove a firearm is straight-forward; but service providers report a number of problems:

- In addition to delays in securing final protection orders, local courts hardly ever order the police to remove guns.<sup>37</sup> The reasons for this include that there is low reporting of gun use by IPV victims as well

<sup>36</sup> Shaw, Margaret. 2013. Too Close to Home – Guns and Intimate Partner Violence. Small Arms Survey 2013: Everyday Dangers. Cambridge: Cambridge University Press.

<sup>37</sup> See:

- Parenzee, Penny, Lilian Artz, and Kelly Moulton. 2001. Monitoring the Implementation of the Domestic Violence Act: First Research Report 2000–2001. Cape Town: Institute of Criminology, University of Cape Town.
- Vetten, Lisa, and Vera Schneider. 2006. Going somewhere slowly? A comparison of the implementation of the Domestic Violence Act (no. 116 of 1998) in an urban and semi-urban site. Johannesburg: Centre for the Study of Violence and Reconciliation.
- Vetten, Lisa. 2006. Mapping the use of guns in violence against women: Findings from three studies. African Security Review, Vol. 15, No. 2, pp. 86–92.
- Vetten, Lisa. 2014. Domestic violence in South Africa. ISS Policy Brief 71, November. Pretoria: Institute for Security Studies



as poor responses from criminal justice structures responsible for removing guns that have been reported, even when removal is a requirement once IPV involving a firearm has been reported.<sup>38</sup> The low removal rate of firearms following IPV is of particular concern as international research shows:

- Displaying a firearm in a domestic altercation is a predictor of actual use, with many victims of femicide reporting having been threatened with a firearm before being shot.<sup>39</sup>
- “(C)ompelling evidence that a gun in the home is a risk factor for intimidation and for killing women in their homes, and it appears that a gun in the home may more likely be used to threaten intimates than to protect against intruders.”<sup>40</sup>
- A record of partner violence does not necessarily translate into safety for women, with international research showing that femicide victims may be even more vulnerable in the period following the issuance of a protection order, as the perpetrator may feel increased animosity and hostility during this time.<sup>41</sup> In confirmation of this finding, 33% of women killed in South Africa in 2009 had a protection order against their male partner.<sup>42</sup>

### The Firearms Control Act (FCA)

Chapter 12 of the FCA allows the courts and police to declare a gun owner unfit:

Courts: Section 102 of the FCA	Police: Section 103 of the FCA
<p>Gives the courts the power to declare a gun owner unfit to own a gun for a range of reasons, including if s/he is convicted of an offence involving:</p> <ol style="list-style-type: none"> <li>1. The negligent handling of a firearm;</li> <li>2. Handling of a firearm while under the influence of any substance which has an intoxicating or narcotic effect;</li> <li>3. Any offence involving violence or sexual abuse for which the accused is sentenced to a period of imprisonment without the option of a fine;</li> <li>4. Any offence involving physical or sexual abuse occurring in a domestic relationship as defined in the DVA;</li> <li>5. Any offence in terms of the DVA in respect of which the accused is sentenced to a period of imprisonment without the option of a fine.</li> </ol>	<p>Gives the Registrar (the National Police Commissioner) the power to declare a gun owner unfit; identifying five reasons for reporting a gun owner to the police:</p> <ol style="list-style-type: none"> <li>1. A final protection order has been issued against the gun owner;</li> <li>2. The gun owner has expressed the intention to injure or kill himself or someone else using a firearm or other dangerous weapon;</li> <li>3. It is not in the interests of the gun owner or any other person that s/he keeps the gun, because of the person’s mental condition, inclination to violence or dependence on alcohol or narcotic drugs;</li> <li>4. The gun owner has failed to carry or store the gun safely, as required by law;</li> <li>5. The gun owner has provided information required in terms of FCA which is false or misleading.</li> </ol> <p>Once a statement has been made, the police are required to undertake an investigation, including interviewing witnesses. If the gun owner is found unfit, s/he must hand in all guns and licences and is not allowed to apply for a gun licence for five years.</p>

- Bezuidenhout, Christiaan, and Laetitia Coetzee. 2017. Domestic violence in South Africa. Scharff Peterson, Diana, and Julie Schroeder (eds). 2017. Domestic Violence in International Context. London and New York: Routledge.

<sup>38</sup> Shaw, Margaret. 2013. Too Close to Home – Guns and Intimate Partner Violence. Small Arms Survey 2013: Everyday Dangers. Cambridge: Cambridge University Press.

<sup>39</sup> Alvazzi del Frate, Anna. 2011. When the Victim is a Woman. Geneva Declaration Secretariat. Global Burden of Armed Violence 2011. Lethal Encounters. Cambridge: Cambridge University Press, pp. 113-144.

<sup>40</sup> Hemenway, David. 2011. Risks and Benefits of a Gun in the Home. American Journal of Lifestyle Medicine, 2 February, p. 7.

<sup>41</sup> Gerney, Arkadi, and Chelsea Parsons. 2014. Women Under the Gun: How Gun Violence Affects Women and 4 Policy Solutions to Better Protect Them, June.

<sup>42</sup> 33% of the 1,024 intimate femicide cases reported in 2009 had a history of intimate partner violence. Source: Abrahams, Naeemah, Shanaaz Mathews, Lorna Martin, Carl Lombard, and Rachel Jewkes. 2013. Intimate Partner Femicide in South Africa in 1999 and 2009. PLOS Medicine, Vol. 10, No. 4, pp. 1-8.



### **PROACTIVE: PREVENTION RATHER THAN CURE**

As already noted, it is globally recognised that prohibiting an individual with a history of violent behaviour from owning a gun is more effective at preventing gun violence than removing a gun from this individual after the fact. As such, a significant strength of the FCA is that it makes provision to disqualify unfit people from owning guns in the first place. The FCA has two key elements to certify that only “fit and proper” people are granted firearm licences, these are:

- 1. Two-tier licensing system** which involves establishing competency before issuing a licence to possess:
  - Competency certificate – setting a minimum standard: Like a learner’s licence to drive, anyone applying for a competency certificate as a first step for a firearm licence must meet certain requirements. The competency certificate thus sets a minimum standard for owning a firearm.
  - Firearm licence – giving official permission: Having obtained a competency certificate, the person wishing to own a firearm has to then apply for a licence. A separate licence is required for each firearm a person wishes to own. A firearm licence documents the state’s recognition that the person has been judged “fit and proper” to own a firearm.
- 2. Renewals:** The FCA requires firearm licence holders to regularly renew their licences (depending on the licence type renewal periods vary between 2, 5 and 10 years). Imposing a limited duration on a gun licence provides for the following:
  - Regular confirmation that the licensed owner is still qualified to have a firearm.
  - An incentive for complying with the law – this places responsibility on the licence holder to maintain “fit and proper” behaviour since there is a risk the licence may be revoked.

### **Challenges in implementing the FCA**

While the FCA contains various provisions to both remove firearms from and prevent at risk individuals from ownership, there are a range of problems in implementing these provisions, including:

**Courts failing to make declarations of unfitness:** Whenever a person is convicted of a violent or firearm-related offence, it is the court’s duty to make a ruling on their fitness to possess a firearm. However, research assessing the enforcement of the FCA found that “the courts are letting the justice cluster down by not declaring firearm perpetrators unfit to possess firearms in terms of Section 103... An obviously frustrated police official pointed out that ‘In most instances that I have seen, a person will be convicted of a crime in court and nothing is said about the firearm’.”<sup>43</sup>

**No process to ensure firearms are surrendered by gun owners declared unfit:** Even when a person is declared unfit to own a firearm, research indicates that this doesn’t necessarily lead to surrender; a large part of the problem seems to be a breakdown in the chain of communication between the courts and the relevant police officials e.g. just under half of police members interviewed reported that administration clerks at times fail to capture unfitness declarations, so compromising the integrity of the police data and follow up action.<sup>44</sup>

**Court orders blocking implementation:** Two interim court orders, both granted by Judge Bill Prinsloo from the North Gauteng Court, mean that the FCA has still not been fully implemented almost 20 years after being enacted:

1. Under the 2009 order, ‘green’ licences issued under the Arms and Ammunition Act (1969) remain valid pending the final outcome of a hunting association’s application to have certain sections of the FCA declared unconstitutional.<sup>45</sup> The interim order (under which more than one million firearm owners have

<sup>43</sup> Bopape, Lesetja. 2014. An Analysis of firearms control measures used by the South African Police Service, PhD Thesis. University of South Africa, p. 147.

<sup>44</sup> Ibid.

<sup>45</sup> Judge B. Prinsloo. 2009. Interim Order of the North Gauteng High Court, Case 33656/09 in the matter between SA Hunters A.O. (Applicant), and Minister of Safety and Security (Respondent), 26 June.



not relicensed under the much stricter provisions of the FCA) has still not been set down for a hearing as the Minister of Police has not filed an answer, thereby preventing full implementation of the FCA.

2. Under the 2018 order, which directly contradicts a 2018 ruling by the Constitutional Court that licence renewal provisions in the FCA are constitutional,<sup>46</sup> any action by the police to act on these provisions has been halted until the case has been heard as part of the normal court's roll.<sup>47</sup>

**A “malfunctioning” Central Firearms Registry:**<sup>48</sup> While various turnaround strategies have been developed by government to turn the Central Firearms Registry (CFR, the police unit responsible for record-keeping) into a “functional unit”, as of 2019 this has still not been finalised, which means there is likely still no link between the Crime Administration System (CAS) and the CFR so the police can immediately identify an individual who has applied for a gun-licence but who is unfit to do so.<sup>49</sup>

**Staff and resource shortages:** Designated Firearms Officers (DFOs, police officers at each police station), are responsible for liaising between firearm licence applicants/ holders and the state. DFOs play a critical role in both the competency certificate and licence application process as well as licence renewals; for instance, the SAPS 517 *Application for a Competency Certificate* requires DFOs to, amongst other tasks, conduct a minimum of three interviews, two of which must be in person, and one of which must be with the applicant's spouse to assess whether the applicant is “fit and proper.” However, oversight visits to police stations by Members of Parliament<sup>50</sup> and research<sup>51</sup> reveal that DFOs are not always able to conduct thorough background checks for a number of reasons, including staff and equipment shortages. Proposed amendments to the FCA published in 2015 aimed to address some of these difficulties by requiring the appointment of a DFO at each police station as well as providing a detailed description of the role and responsibility of the DFO, but these amendments have yet to be tabled.

## CONCLUSIONS AND RECOMMENDATIONS

This Briefing has identified the particular risk that firearms pose to women across the world, as well as key reactive and proactive policies to reduce gun-related IPV, and thus save women's lives.

While these policies are in place in South Africa, they are not being uniformly implemented. Below is a summary of five urgent actions to protect women from gun violence:

### REACTIVE: REMOVE GUNS FROM INDIVIDUALS WITH A HISTORY OF VIOLENT BEHAVIOUR

1. **Immediately remove firearms in incidents of IPV:** This requires that magistrates and police officers be proactive, and always ask about the presence of a gun and ensure its removal when dealing with or responding to violence or firearm-related offences, even where victims do not request this. This in turn requires training through police and justice colleges.

<sup>46</sup> Judge J. Froneman. 2018. Judgement of the Constitutional Court of South Africa, Case CCT 177/17 in the matter between the Minister of Safety and Security (Applicant), South African Hunters and Game Conservation Association (Respondent), Fidelity Security Services (PTY) Limited (First Amicus), and Gun Free South Africa (NPO) (Second Amicus), 7 June. (Online). Available at [www.saflii.org/za/cases/ZACC/2018/14.pdf](http://www.saflii.org/za/cases/ZACC/2018/14.pdf) (accessed 12 June 2018).

<sup>47</sup> Judge B. Prinsloo. 2018. Interim Order of the North Gauteng High Court, Case 46684/18 in the matter between Gun Owners of South Africa (Applicant), the National Commissioner of Police (First Respondent), and Minister of Police (Second Respondent), 27 July.

<sup>48</sup> Term used by the Minister of Police E.N. (Nathi) Mthethwa. 2010. Current challenges affecting the SAPS firearms application and licensing process. Presentation made at the National Press Club, Sheraton Hotel, Pretoria, 2 November.

<sup>49</sup> South African Police Service 2010-2011 Annual Report, p. 71. (Online). Available at [www.saps.gov.za/about/stratframework/annualreports\\_arch.php](http://www.saps.gov.za/about/stratframework/annualreports_arch.php) (accessed 7 February 2019).

<sup>50</sup> Deputy Minister of Police, M. (Maggie) Sotyu. 2015. Findings and recommendations from the oversight visit to the Central Firearm Registry (CFR). Presentation made at the National Firearms Summit, Parliament of the Republic of South Africa, 24-25 March.

<sup>51</sup> Parliament of Republic of South Africa. 2015. Report of the Portfolio Committee on Police on its 22 - 23 September 2014 oversight visit to the Central Firearms Registry and Police stations in and around Pretoria, in the Gauteng Province dated 19 November 2014. Announcements, Tablings and Committee Reports No 84-2015, pp. 2641-2656.

<sup>52</sup> Bopape, Lesetja. 2008. The Impact of the Firearm Control Act 60/2000 in Restricting Gun Ownership for At Risk Individuals in the Pretoria North Firearm Registration Centre Policing Area. Masters Thesis. University of South Africa.



2. **A gun owner who is declared unfit surrenders all licences, firearms and ammunition.** This requires coordination of processes within the criminal justice system to ensure that court orders declaring a gun owner unfit to own a firearm actually lead to the physical surrender of licences, firearms and ammunition.

**PROACTIVE: ENSURE SYSTEMS ARE IN PLACE TO PREVENT INDIVIDUALS WITH A HISTORY OF VIOLENT BEHAVIOUR ACCESSING GUNS**

3. **All gun owners comply with “fit and proper” provisions in the law.** This requires that:
  - The 2009 interim court order exempting gun owners licensed under the Arms and Ammunition Act (1969) from relicensing under the FCA is set down.
  - The Minister’s appeal to the 2018 interim court order exempting gun owners from having to relicense their firearms as required under the FCA is heard by the Supreme Court of Appeal.
4. **Electronic databases and registers be established and linked.** A court order earlier this month has given the Minister of Police and National Commissioner four years to comply with the FCA and establish electronic databases with firearms dealers, manufacturers, gunsmiths, and importers and exporters.<sup>52</sup> While the order includes specific timelines (undertake a bidding process to secure the services required and appoint a contractor by 31 August 2020; complete the process, design and implementation of the system required to establish such electronic connectivity by 31 July 2022), the order does not require that the CFR be fully functional and link with CAS; this will require intervention from oversight bodies, such as parliament.
5. **Police officers dealing with firearm-related issues are empowered with knowledge, skills and resources.** This will ensure that DFOs can undertake thorough background checks of firearm-related applicants and motivate why they have declared firearm licence applicants unfit for gun ownership so these declarations are not overturned by the Firearms Appeal Board.

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<sup>52</sup> Judge A.C. Basson. 2019. Order of the North Gauteng High Court, Case 41415/2018 in the matter between The South African Arms and Ammunition Dealers Association and The Minister of Police (First Respondent), National Commissioner of the South African Police Services General KJ Stihole (in his capacity as Registrar of Firearms (Second Respondent), Mr Abraham Mongwe Chairman Appeal Board (Third Respondent), The Firearms Appeal Board (Fourth Respondent) and The President of the Republic of South Africa (Fifth Respondent), 5 August.