

FIREARMS CONTROL BRIEFING

FIREARMS AMNESTIES: FOUR KEY FACTORS FOR SUCCESS

INTRODUCTION

On 23 October 2019 the Portfolio Committee on Police (PCOP) approved an application from the Ministry of Police to hold a six month firearms amnesty starting on 1 December under Section 139 of the Firearms Control Act, No 60 of 2000 (FCA).¹

During the PCOP discussion of the amnesty, three key questions were asked:²

1. Are amnesties an effective strategy to reduce illegally-held guns?
2. Can the police be trusted to oversee the 2019/20 amnesty?
3. Is there enough time to prepare?

Each of these questions is answered below by drawing on lessons learned from South Africa's own experience of holding amnesties as well as the experience of other countries.

QUESTION 1: CAN AMNESTIES REDUCE ILLEGALLY-HELD GUNS?

Under the FCA, the primary objective of a firearms amnesty is to remove illegal guns from circulation. According to Section 139(1)(a):

The Minister may, by notice in the Gazette, declare an amnesty if-

(a) the amnesty may result in the reduction of the number of illegally possessed firearms in South Africa.

As shown in Table 1 below, amnesties are an effective way of recovering illegal firearms and rounds of ammunition: Over one third of the guns and ammunition recovered in the 2005 and 2010 amnesties were illegally-held.

Year	Firearms		Ammunition rounds	
	Legally-held	Illegally-held	Legally-held	Illegally-held
1 January to 30 June 2005 (6 months) ³	45,727	33,246	821,527	608,794
11 January to 11 April 2010 (4 months) ⁴	30,442	11,887	321,155	129,234
Sub-total	76,169 (63%)	45,133 (37%)	1,142,682 (61%)	738,028 (39%)
Total	121,302		1,880,710	

¹ Joemat-Pettersson, Tina (Chairperson of the Parliamentary Portfolio Committee on Police). 2019. Police Committee approves firearms amnesty. Statement issued by the Republic of South Africa Parliamentary Communication Service, 23 October. (Online). Available at www.parliament.gov.za/press-releases/police-committee-approves-firearms-amnesty (accessed 3 November 2019).

² Parliamentary Monitoring Group. SAPS on Firearm Amnesty 2019/20: follow up meeting. Minutes of Parliamentary Portfolio Committee on Police meeting, 23 October. (Online). Available at <https://pmg.org.za/committee-meeting/29140/> (accessed 6 November 2019).

³ Kirsten, Adèle. 2007. Simpler, better, faster. Review of the 2005 Firearms Amnesty. ISS Paper 134. Pretoria: Institute for Security Studies.

⁴ SAPS 2009-2010 Annual Report.

But what do we mean by ‘illegally-held’? Distinguishing between illegally-held guns that are unauthorised, and illegally-held guns that are criminal helps deepen our understanding of the potential for an amnesty to recover illegally-held guns.

Types of illegally-held guns	
Unauthorised	Criminal
Refers to a gun that has been legally acquired e.g. bought or inherited. While the owner has a licence and the gun is registered, the licence has expired and not been renewed. The firearm remains in the possession of the rightful owner who has documentary proof of this.	Refers to a gun that has been illegally acquired e.g. through theft or buying on the black market. It also includes guns that have been inherited but for which the heirs have not applied for firearm licences.

Research following the 2005 amnesty shows that the majority of illegally-held guns and ammunition that were handed in were surrendered by the rightful owner, as such they were unauthorised rather than criminally-held.⁵

There are a range of reasons why criminally-held guns are not likely to be handed in during an amnesty. Two key reasons are:

1. They are highly valued by people who are loathe to hand in this prized possession.
2. The conditions of the amnesty don’t allow for anonymous surrender.

Neither the 2005 nor 2010 amnesties in South Africa provided for anonymity. The presentation given by the South African Police Service (SAPS) to the PCOP indicate that the 2019/20 amnesty will also record the details of the person handing in a firearm. While this does mean “No indemnity for firearms used to commit crime such as murder, robbery, hijacking, etc.,”⁶ it erases any chance that criminally-held guns will be handed in, either by the owner or a third party. For instance, Brazil’s success in recovering 460,000 weapons in an 18 month no-questions-asked amnesty in 2004/05 has been partly attributed to the fact that women were encouraged to hand in guns that were criminally owned by the men in their lives, be they sons, spouses or brothers.⁷

Factors for Success

1. *No questions asked* – An amnesty in which no questions are asked, otherwise referred to as a blanket amnesty, has been shown to be the most effective at removing unwanted and unauthorised as well as criminally-held guns. In blanket amnesties, identifying information of the firearm or firearm part handed in is recorded; this information is used to remove the gun from the firearms register, and to also see if it is linked to any crimes, but no identifying information of the person handing in the gun is recorded. It is the nullification of the risk of prosecution that encourages people to hand guns in, thereby facilitating their removal from communities.

⁵ Kirsten, Adèle. 2007. Simpler, better, faster. Review of the 2005 Firearms Amnesty. ISS Paper 134. Pretoria: Institute for Security Studies.

⁶ South African Police Service. 2019. Firearm Amnesty 2019/2020. Briefing to the Portfolio Committee on Police, 23 October. (Online). Available at <https://pmg.org.za/committee-meeting/29140/> (accessed 4 November 2019).

⁷ Other factors contributing to the success of the 2004/05 amnesty included its conditions and that it coincided with the introduction of new firearm legislation in Brazil, for details see: Gun Free South Africa. 2017. Firearms Amnesties: The Brazil example. Firearms Control Briefing 4, 11 May.

QUESTION 2: CAN THE POLICE BE TRUSTED TO OVERSEE THE 2019/20 AMNESTY?

One of the biggest concerns raised by members of the PCOP is whether the SAPS can be trusted to manage the 2019/20 firearms amnesty and permanently remove guns from communities. This concern is raised within the context of fraud, corruption and theft by rogue police officers, which has seen weapons that were handed in for destruction leak from police stores back onto the streets.

The impact of this is best demonstrated by Christiaan Prinsloo, the former Gauteng police colonel who was sentenced to 18 years' imprisonment in mid-2016 for selling confiscated and surrendered guns, including guns handed in during amnesties, to Western Cape gang leaders.⁸ In another high-profile case, a police raid on the Norwood home of Emma and Mark Shmukler-Tishko in 2014 netted an arms cache that included R1, R4, R5, and AK-47 rifles and approximately 300 handguns. During the couple's court appearance, prosecutor Talita Louw revealed that some of the firearms in the cache had been handed in to the police for destruction during the 2010 national firearms amnesty before being sold to criminals by corrupt police officials.⁹

These examples of poor stockpile management by the police, that is, not securing amnesty guns and ammunition from point of hand-in right through the chain of storage and transport until the moment of destruction, has eroded public confidence in the police. Consequently, it is critical that the SAPS institute measures to ensure that all weapons and ammunition surrendered during the 2019/20 amnesty will be secured from hand-in to destruction and that the entire process is independently monitored.

The SAPS presentation to the PCOP indicates that systems are in place to effectively manage amnesty stocks, thereby reducing the risk of leakage. In addition to a detailed breakdown of the steps to be undertaken to manage the 2019/20 amnesty over 5 phases: Planning, Implementation, Reporting and monitoring, Destruction and Debriefing, the SAPS has developed a list of risks and mitigating actions such as excluding high risk police stations from the amnesty. What the SAPS' planning doesn't include is provision for independent oversight.

Factors for Success

2. *Civilian oversight* – In addition to a national steering committee that is overall responsible for managing the 2019/20 amnesty, it is absolutely critical that an official independent observer with monitors in all provinces, be appointed to ensure oversight and transparency and to identify problems as soon as possible so that these can quickly be dealt with. Monitors must undertake unannounced oversight visits at police stations to check each station's compliance with the amnesty process, verify that firearms and ammunition recorded as handed in are in fact held in police stores and ensure that guns and ammunition handed in are destroyed.

⁸ Mzants, Siyavuya. 2016. Former top cop jailed for illegal gun trade. Cape Times, 22 June. (Online). Available at www.iol.co.za/news/crime-courts/former-top-cop-jailed-for-illegal-gun-trade-2037112 (accessed 8 February 2017).

⁹ Hosken, Graeme. 2014. Cops leaking guns. The Times, 4 April. (Online). Available at www.timeslive.co.za/thetimes/2014/06/04/Cops-leaking-guns (accessed 5 March 2017).

QUESTION 3: HOW MUCH LEAD-IN TIME IS NEEDED FOR A SUCCESSFUL AMNESTY?

While the 23 October PCOP meeting approved the 2019/20 amnesty to start on 1 December, it still needs to be approved by both the National Assembly and National Council of Provinces, and the conditions finalised. While this appears to leave very little time to properly engage stakeholders, including police members, partners and the public, the reality is that preparations for this amnesty have been underway since early 2017. In addition, for amnesties to be successful they need to be part of a comprehensive firearms control strategy, and to be conducted in conjunction with other activities such as police search and seizure operations as well as the implementation of changes to tighten gun control policy or practice. Destroying surplus weapons is part of that strategy.

Factors for Success

3. *Timing of the amnesty* – holding an amnesty in conjunction with changes in gun control policy or practice (e.g. the introduction of new gun legislation or strengthening an existing policy) yields the best results in recovering the most number of weapons. While an amendment to the FCA was scheduled to come before Parliament in 2016, this has been repeatedly delayed. Although the Civilian Secretariat for Police Services reported in September 2019 that there had been “extensive internal consultation” with relevant departments and stakeholders including the Office of Chief State Law Advisor, that the Socio-Economic Impact Assessment System had been concluded, with the aim being “Cabinet approval for publication in Gazette 4th Quarter,”¹⁰ it is unlikely that an amended FCA will be enacted in the next six months.

However, an appeal by the Minister of Police to a 2018 interim court order does offer an opportunity to recover unauthorised firearms in South Africa. In sum, and in direct contravention to a unanimous 2018 Constitutional Court ruling that firearm licence renewals are constitutional and that a gun owner who has failed to renew his licence must surrender it to the police,¹¹ the North Gauteng High Court granted an interim order to Gun Owners of South Africa interdicting the police from receiving firearms for which licences have expired.¹² The Minister of Police has appealed this ruling under which approximately 450,000 gun owners have not renewed their firearm licences.

¹⁰ Civilian Secretariat for Police Services. 2019. Legislation program for the sixth administration. Presentation to the Portfolio Committee on Police, 11 September. (Online). Available at <https://pmg.org.za/committee-meeting/28863/> (accessed 4 November 2019).

¹¹ Froneman, Johan (Judge). 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 (accessed 12 June 2018).

¹² Prinsloo, Bill (Judge). 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.

Factors for Success

4. *Communications and public awareness raising programmes* – There is evidence that people wait until the last minute before acting on calls to hand-in firearms and ammunition and that extensive public awareness raising is needed to keep the amnesty issue in the foreground. While SAPS reports that it has a communication plan for the 2019/20 amnesty “developed and ready for implementation,”¹³ partnering with civil society organisations, such as religious institutions or NGOs, to help communicate the amnesty message can significantly improve its success in recovering guns and ammunition. For instance, as an official partner to the 2010 firearms amnesty, GFSA led a successful mass awareness-raising campaign to promote the amnesty, enlisting the pro-bono assistance of advertising agency Young & Rubicam (Y&R) to develop creative ways to communicate the amnesty message.

Following the South African Football Association’s (SAFA) establishment of the Senzo Meyiwa Gun Control Committee and subsequent calls by SAFA and the Committee for a national firearms amnesty after Meyiwa’s shooting and death in 2014, SAFA through the Senzo Meyiwa Gun Control Committee, would be a logical and powerful ally to partner with during the 2019/20 amnesty.¹⁴

CONCLUSION

By posing three questions, this Briefing has identified four key factors that will contribute to the success of the 2019/20 amnesty. A blanket amnesty overseen by independent monitors that coincides with the full implementation of sections 24 and 28 of the FCA (which require gun owners to regularly renew their firearm licences or forfeit guns for which licences have expired), and underpinned by a comprehensive communication campaign will help put in place conditions to recover as many illegally-held guns as possible, encourage the voluntary surrender of unauthorised as well as legally-held guns and ensure the safe storage and destruction of all recovered and surrendered firearms.

¹³ South African Police Service. 2019. Firearm Amnesty 2019/2020. Briefing to the Portfolio Committee on Police, 23 October. (Online). Available at <https://pmg.org.za/committee-meeting/29140/> (accessed 4 November 2019).

¹⁴ South African Football Association. 2015. 100 Days since shooting of Senzo Meyiwa. Facebook post, available online at www.facebook.com/southafricanfootballassociation/posts/921473594543920:0 (accessed 5 March 2017).