



Submission in response to 13 May 2020 Notice by the State of its intention to destroy firearms, firearm parts and ammunition

Reference: Government Gazette No. 525 in which the Department of Police gives notice in terms of section 136(1) of the Firearms Control Act, 2000 of its intention to destroy all firearms, ammunition and firearm parts that have been voluntarily surrendered or forfeited to the State.

Submission made by Gun Free South Africa, 3 June 2020

For the attention of:

The National Commissioner (Registrar)

South African Police Service

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About Gun Free South Africa

Gun Free South Africa (GFSA) is a national NGO that was established in 1995 to contribute to safety and security in South Africa by reducing gun violence. GFSA's interest in making this submission is twofold, to:

1. Reduce the risk that firearms, ammunition and firearm parts in police stores and earmarked for destruction will be leaked into criminal hands.
2. Build public confidence in the police that firearms, ammunition and firearm parts that been surrendered to the police for destruction will be destroyed.

Submission

Introduction

It is globally recognised that the destruction of excess, redundant, obsolete and unwanted firearms, ammunition and firearm parts is the *only* way to guarantee that these are not leaked through loss, theft, fraud or corruption into the illegal pool of weapons. As such, GFSA welcomes the Department of Police's notice of its intention to destroy all firearms, ammunition and firearm parts that have been voluntarily surrendered or forfeited to the State.

We note that global experience shows that **firearms, ammunition and firearm parts in storage awaiting destruction are particularly vulnerable to being diverted**, with risk increasing once details have been published. South Africa's own experience confirms this risk:

1. 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.
2. In 2016, Christiaan Prinsloo, a former Gauteng police colonel was sentenced to 18 years' imprisonment for selling confiscated and surrendered guns, including guns handed in during amnesties, to Western Cape gang leaders. Court papers show that:
 - 888 of the guns stolen by Prinsloo were forensically linked to 1,066 murders in the Western Cape between February 2010 and 31 May 2016.
 - 261 children between the ages of 1 and 18 years old were shot between February 2010 and December 2015 with guns stolen by Prinsloo, 89 of whom were killed.
 - Of the 2,000+ guns that Prinsloo admitted to stealing as part of his plea bargain with the State, more than 1,000 are still missing.

The consequence of leakages like this include that:

1. **Gun availability increases.** Guns are highly prized items and are targeted by criminals who cannot acquire them legally. Civilians in South Africa are particularly vulnerable to criminal attack, reporting an average of 25 guns being lost or stolen every day in 2018-19.¹ It is likely that some of the 9,002 civilian guns reported as having been lost or stolen that year were unwanted but were not

¹ South African Police Service 2018-2019 Annual Report.

surrendered to the police due to mistrust; instead they were in people's homes, readily available to criminals, including robbers targeting household items.

2. **Gun-related violence increases.** Between 2011/12 and 2018/19, murder increased 26%, attempted murder 22% and aggravated robbery 28%; guns have replaced knives as the leading cause of murder – 34% of murders in 2018-19 were gun-related, while 22% were knife-related.²
3. **The police are vulnerable to being sued for deaths and injuries resulting from negligent storage.** As SAPS itself has noted in response to Prinsloo's actions, "The South African Police Service is duty bound to ensure that any loopholes which allowed the theft of the firearms in its custody (are) plugged as soon and as effectively as possible."³ Moreover, if SAPS fails to take action to "prevent a recurrence of the corruption and crimes that were committed", "(t)he scope of...possible litigation is enormous."⁴
4. **Public trust in the police is eroded.** When gun owners handed their guns to the police during amnesties, they trusted the police to destroy these guns. The public played their part - they handed their guns in to the police for destruction. By not destroying these guns, the police failed the public and South Africa as a whole. The result of this loss of confidence is that members of the public with unwanted guns are less likely to hand them in to the police for destruction, as they believe that the police will sell surrendered guns to criminals.

Recommendations

Based on South Africa's experience of guns earmarked for destruction being leaked from police stores and the consequences of this as well as global good practice, GFSA makes the following four recommendations which are based on international best practice:

1. Marking of firearms

All firearms scheduled for destruction to be marked prior to destruction using a manual stamp to hammer a small mark in to the receiver to show that the weapon was held within a destruction programme storage.

2. Independent verification

An independent verification taskforce is established prior to the destruction which is tasked with ensuring that firearms, ammunition and firearm parts listed on schedules published on www.saps.gov.za are 1) still in police stores and 2) are destroyed.

3. Data sharing

Data sets listing the details of all firearms, ammunition and firearm parts scheduled to be destroyed are shared with regional and international policing agencies to monitor transnational diversion.

² South African Police Service annual crime statistics, available online at www.saps.gov.za.

³ Quote on page 4 of a booklet "Back to Basics – Towards a Safer Tomorrow" written by the South African Police Service's Legal Services, 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.

⁴ Ibid p7.

4. Destruction on 9 July – International Small Arms Destruction Day

Since 2001, the 9th of July has been marked throughout the world as International Small Arms Destruction Day. The government of South Africa has supported this initiative from the very beginning: In order to “eradicate illegal firearms from the country,” South Africa destroyed 13,815 firearms on 9 July 2001.⁵

Almost 20 years later South Africa is in a unique position to lead support of this important day: As chair of the AU, which has identified silencing the guns as a key strategy to creating conditions conducive to Africa’s development, a public destruction of firearms by the South African government on 9 July 2020 would powerfully convey our government’s commitment to silencing the guns in Africa.

Conclusion

Over the years South Africa has destroyed thousands of weapons, thereby reducing gun availability and use in crime. Conversely, fraud, corruption and a dereliction of duty in safeguarding weapons stocks have facilitated the leakage of guns in legal stockpiles to criminals’ hands. The time is now for our government to take practical and meaningful action to prevent the leakage of guns in police stores, to build public confidence in the police and to support gun destructions as a key strategy to silencing the guns in Africa.

⁵ South African Police Service 2001-2002 Annual Report, p. 45.